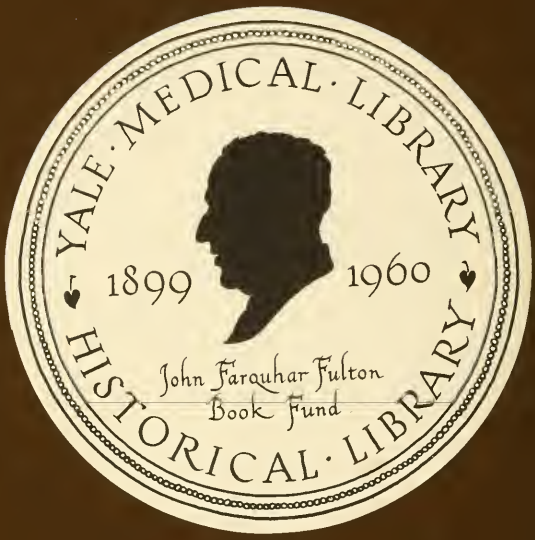
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THE

MEDICAL JURISPRUDENCE

OF

INSANITY

BY

J. H. BALFOUR BROWNE, Esq.,

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW.

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TO

W. A. F. BROWNE, Esq.,

LATE COMMISSIONER IN LUNACY FOR SCOTLAND,

THIS WORK

IS

AFFECTIONATELY INSCRIBED

BY

HIS SON.

PREFACE.

The last words of a book are those which meet the reader's eye first. As that is the case, a preface generally says what the book is meant to be, and in how far the writer's intentions have been realised in the work. Most prefaces are apologies.

This work on mental defects and diseases in their legal relations is intended as a practical treatise more complete and systematic than the chapters devoted to this subject in medico-legal text-books, or than those monographs on limited portions of it which have from time to time appeared.

It is to be hoped that it will prove useful to the lawyer and the medical man, and that it will do something to explain, and therefore to reconcile, the differences which too frequently arise between these, in cases in which civil capacity or criminal responsibility is in question.

The work is illustrated by references to recent cases and decisions, as well as to standard authorities, and contains some examples of mental infirmity and

derangement which have fallen under the author's personal observation.

The author has to acknowledge the kindness and assistance which he has received from Dr. Crichton Browne, of the West Riding Asylum.

He would also desire to express his thanks to Mr. Frederick J. C. Ross, of the Middle Temple, for the assistance which he has afforded while the work was passing through the press.

5, Essex Court, Temple;
6th June, 1871.

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ON THE

MEDICAL JURISPRUDENCE OF INSANITY.

CHAPTER I.

LUNACY AND LIMITED RESPONSIBILITY.

Many men have a pleasant way of taking difficulties to bed with them. They sometimes awaken in the morning to find the difficulty gone, and in its place, a precipitate of wisdom. Their circumstances have creamed—their course is clear! Other men allow a difficulty to go to sleep, hoping that time will remove it. There is a Fabian policy with regard to mental matters. If a man has doubts, and cannot clip their wings, and confine them to the yard of his life, some folks would say of him he is happy; others would say he is a fool. The latter class is composed of those who, when they come to a question that they cannot answer, dismiss the subject by thinking it is one of those things that it is not meant that man should understand. A very easy way through life those people find for themselves, for questions are thorns. Such a creed is the panacea for contumely. To look upon humanity as a line drilled by fate or Deity, and yourself as the pivot man, to stand fast or mark time, and be certain that, notwithstanding the seeming progress of the men at the other end, you will be found as far forward as they in the end, is a pleasant creed. Are not creeds cradles? and do they not rock us to sleep—sleep with dreams? But in questions which have to do with the relation of man to man, there is an urgency which will not allow of our placing them on the shelf to ripen, as we do apples. We must get at a sort of truth now.

There is a corn under the tight leather, and in order to get rid of the pain, even though anon we have to put a patch on, we must cut the shoe. So we must legislate, although anon we may require to amend, and then in a little while to repeal. So that the best laws might really be said to grow, and not to be made. Whatever the growth of humanity shapes, seems, even in its inanimacy, to partake of the attribute of life.

No part of the laws of this country has, if we may judge from the outcry of a certain class of the community, been more hard upon the corns of poor humanity than that which regulates the relations of men who are sane to men who are not sane. That some legislative interference was necessary to regulate the numerous relations of those two classes of persons was evident even to our incompetent ancestors. We have certain laws. A man makes a will and dies, and his relations who are not mentioned in the testament, and who would have profited in case of an intestacy, assert that the testator was mad, and therefore unable to make a will. A man with property is profuse in his expenditure, and those who would profit if he was a miser, maintain that he is insane, and therefore unable to manage his affairs, and request that his hands be tied by the red-tape of the law. An act which in the case of a sane man would be a crime is committed, and the question arises as to whether the individual is sane or insane; whether, under the law as it at present stands, the person committing the crime is liable to suffer punishment for the act committed by him, or is to be exempted on the ground of unsoundness of mind? These questions, which are evidently, in individual cases, of paramount importance, and which very frequently arise in practice, indicate the necessity of arriving at some thorough answer to the question—What is this insanity which incapacitates a man from making a will, from managing his own affairs, and which, in case he commits a crime, will protect him from the ordinary consequences of such an act?

This question and its answer have caused much difference of opinion. Long before medical men even considered themselves in a position to answer the question, it was necessary that some answer should be recognised in courts of law. The legal relations of the insane were determined long before medical men were prepared to look upon insanity as a disease, and while they still

regarded it as a "possession" by devils. When medical men began to see that the whip was not in all cases a cure for mental disease, when those who suffered from mental aberration began to be looked upon more in the light of those who were sick, than in the light of those who were wicked, the profession began to complain of the injustice with which the laws treated persons of unsound mind; and in the reaction which followed the long persecution of the insane, the medical profession has endeavoured, in a sort of making up of the accounts of justice—which tempts a mother to be kind to a surviving child because she killed another by cruelty—to look upon all criminals in the light of the sick; and has demanded for them the same untiring vigilance and soothing attention, the same solicitude, and the same indulgence, which is looked upon as the right of those who suffer from bodily disease. They seemed to hold with the Northern Farmer, that—

> "'Tisn't them as 'as money as breaks into 'ouses and steals,
> Them as 'as coats to their backs, and taaks their regular meals;
> Noa, but it's them as never knaws where a meal's to be 'ad:
> Taake my word for it, Sammy, the poor in a loomp is bad:"

and that the way to put an end to crime was to propagate luxury, and that the way to diminish the criminal class was to suppress poverty. The feelings of the community are at the present time all on the side of the humane treatment of our insane and criminals; and it is owing to this fact that the important question as to what the law ought to recognise as insanity, and in what cases it should be held to incapacitate from the enjoyment of privileges, and in what it should be held to protect from the consequences of certain quasi-criminal acts, has been lost sight of, or at least has received only a breathless and unsatisfactory answer. In a class, when it is doubtful to whom a question is put, and when all the members answer together, the master cannot make out one correct answer. Now, the question stated above has suffered in its answer, because there is much doubt as to who has a right to answer it. Medical men assert that it is theirs to say what insanity is, and lawyers assert that it is theirs to say what the law calls insanity; nay, further, legislators have asserted that it is theirs to say what the law ought to call insanity. So, between all the answering, the ear of the public has been quite full of noise and hubbub, but

it has not received a satisfactory answer to the question. It may even be doubted whether a satisfactory answer has yet been given.

The antagonism of the two professions with regard to the property in the question has militated much against the accuracy and excellence of the answer. When the property in such a question has been in dispute, it is thought incumbent that the answer should be satisfactory when looked at from the point of view, and that it should go far to demonstrate the rightful ownership, of the party answering it; and it can be easily understood that the existence of such an element in the mind during the taking of the evidence would render worthless the result of the investigation. Lawyers felt called upon to prove that the law had said, and did say, what insanity was and is, and that the legal definition of insanity could not be improved upon. Medical men, on the other hand, in their answers to the question, attempted to prove the utter incapacity of any class of persons to deal with such questions save one which had been educated to appreciate the bearings of disease; and, further, that the fact was that the present state of the law was grossly unjust. Human nature has a tendency to monopoly! Again, the medical profession was in times gone by incapacitated by its ignorance of insanity, and in more recent times has been somewhat incapacitated by the common sentiment of the time from answering the question. The petting of lunatics and criminals was the game to play. Showy philanthropy was on the cards. A man who would say with Emerson that the insane and infirm were "fit cases for a gun," was looked upon as a brute. The man who gave a weekly dance and a halfpenny bun to the insane patients under his care, who never had recourse to restraint, and induced the lion mania to lie down in the same ward with the lamb imbecile, was looked upon as a true modern hero! One does not blame a man, or a class of men, for doing what the omnipotent guide, "How-to-get-on," bids them, although one certainly regards a person under the influence of such principles as incapacitated to judge fairly of many questions which might be brought under his notice. However the fact may be accounted for, it remains a fact that, as yet, no very satisfactory answer has been given to the question stated above.

Many people think, with some plausibility, that proverbs are the

vox populi ; and they are certainly a truer *vox Dei* than the thunder which children at the present day are taught to believe emanates from the lips of God. That proverbs are agreed-upon wisdom is certain, and that the agreed-upon wisdom of an age often comes near to the truth, is a fact capable of proof. It has become usual to say that medical men find a difficulty in arriving at any uniformity in their conclusions, and the fact that their opinions differ has become proverbial. In no cases do they differ more than in those which involve a question of sanity or insanity; and the evidence given in very many cases would lead a casual observer to believe that medical men do not understand the nature of an oath —for an oath surely, in its highest sense, would keep an individual who understood it, and felt bound by it, from speaking confidently upon a subject of which he had little or no knowledge. But it is not so; and it is not a matter for wonder to any one that Lord Campbell spoke as he did to the three physicians employed in the Bainbrigge case, and that many other judges have felt it their duty to speak of the medical testimony in a similar manner. There is a tendency in all witnesses to become advocates; and one finds that they invariably use the possessive pronoun "our" with regard to the side on behalf of which they are summoned. But when they become more than advocates, and seem to forget that ignorance should be a short and not a long tether, they somewhat disgrace themselves and the profession to which they belong.

In considering the question as to what the law recognises as insanity, I will, according to custom, in the first instance, quote Lord Coke's description of the four kinds of men who may be looked upon as *non compos mentis.**

1. An idiot, who from his nativity by a perpetual infirmity is *non compos ;* 2. He that by sickness, grief, or other accident, wholly loseth his memory and understanding; 3. A lunatic that hath sometimes his understanding and sometimes not, *aliquando gaudet lucidis intervallis,* and therefore he is called *non compos mentis* so long as he hath not understanding; 4. He that by his own vicious act for a time depriveth himself of his memory and understanding, as he that is drunken.

No one argues that Lord Coke's classification is without defect. Indeed, each description has faults, and these faults have been over

* Coke's Littleton, 247 a.

and over again found out. To make the first intelligible, the word *idiot* would require to be defined. To make the second true, a construction would require to be put upon it, which no torturing of the words could make them bear.

Commissions of lunacy were originally granted for the purpose of inquiring whether the individual was either an idiot *ex nativitate*, or a lunatic, in the meaning of the term attached to it by Lord Coke. Ultimately, however, the phrase, "unsound mind," was used in the writ with the view of embracing all those who were considered proper objects of the commission, and who did not fall under either of the terms used in the writ which was originally issued. Lord Hardwicke and Lord Eldon made attempts to give this phrase a definite connotation; and Mr. Amos, at one time Professor of Medical Jurisprudence in the London University, said that "the term unsoundness of mind, in the legal sense, seems to involve the idea of a morbid condition of the intellect, or loss of reason, coupled with an incompetency of the person to manage his own affairs;" but it has been decided "that if the jury find merely the incapacity of the party to manage his affairs, and will not infer from that and other circumstances unsoundness of mind, though the party may live where he is exposed to ruin every instant, yet, upon that finding, the commission cannot go on."* It has been argued that the necessity which the law casts upon the jury of inferring the "unsoundness of mind," especially when the phrase is not itself clearly understood, or at least defined by some of our ablest lawyers, is inexpedient, and that in many cases the finding of the jury that the individual was incapable of managing his own affairs, should be sufficient for the continuance of the commission. And yet many very cogent reasons can be given why our English courts were disinclined to sanction the commission, unless the return asserts mental unsoundness. The object of the commission is not to ascertain whether the party is or is not able to manage his own affairs, and is or is not capable of governing himself, but, whether by reason of mental infirmities, amounting to one or another kind or description of insanity, he is thus unable to manage his affairs or thus incapable of governing himself. And the principles upon which our law has made an inference of insanity necessary from the circumstances, seem to me to be sound, and founded upon a more

* 19 Vesey, 286.

thorough principle of justice than has been understood by those who argue against its expediency.

We are now in a position to consider how far insanity incapacitates an individual to contract. It is necessary to distinguish between *executed* and *executory* contracts entered into by or with a lunatic. A contract executed is one in which the object of the contract is performed ;* an executory contract is one in which a party binds himself to do or not to do a particular thing ;† and it is firmly established with regard to the first class above alluded to, that a lunatic is liable for the price of necessaries, *i. e.*, goods suited to his rank and position, actually ordered and enjoyed by, and *bona fide* supplied to him. In the case of Molton *v.* Camroux,‡ the right of a lunatic or his representatives to rescind an executed contract entered into by him, such contract, not being for necessaries, was called in question. A lunatic had purchased certain annuities of a life assurance company, and had paid the consideration money and a premium in respect thereof. After his death an action was brought for the recovery of the moneys paid by him by his administratrix, under the following state of facts as found by special verdict. At the time the annuities were granted, and payment of the consideration money made, the intestate was a lunatic and of unsound mind, so as to be incompetent to manage his affairs; but of this the assurance company had not at that time any knowledge. The purchases of the annuities took place in the ordinary course of business; they were fair and *bona fide* transactions, the grantee appearing to the assurance company to be of sound mind, although he was, in fact, a lunatic. The question, therefore, reserved by the special verdict was, whether the mere fact of unsoundness of mind, not apparent at the time of the transaction in question, was sufficient to vacate the act, albeit executed by the grantee by payment of the consideration money, and intended *bona fide* to be executed by the grantor by payment of the annuity. On deciding the question on appeal, the Court of Exchequer Chamber made the following remarks :§—"The old doctrine was that a man could not set up his own lunacy, though such as that he did not know what he was

* Fletcher *v.* Peck ; 1 Powell Contr., p. 234.

† 1 Powell, 235.

‡ 4 Exch. 17, affirming judgm. in S. and C., 2 Exch. 487.

§ 4 Exch. 19.

about in contracting.* The same doctrine was applied to drunkenness. It is true that there are some exceptions to the old authorities, and the doctrine is not laid down uniformly with perfect distinctness; but, in general, it was as above stated. Modern cases have qualified it, and enable a man or his representatives to prove that he was so lunatic or drunk as not to know what he was about when he made a promise or sealed an instrument. This special verdict hardly shows any such state of mind; but even if it did, the modern cases show that when the state of mind was unknown to the other contracting party, and no advantage was taken of the lunatic, the defence cannot prevail, especially where the contract is not merely executory, but executed in the whole or in part, and the parties cannot be restored altogether to their original position." It is evident, then, that "when a person, apparently of sound mind, and not known to be otherwise, enters into a contract for the purchase of property which is fair and *bona fide*, and which is executed and completed, and the property, the subject-matter of the contract, has been paid for and fully enjoyed, and cannot be restored so as to put the parties *in statu quo*, such contract cannot afterwards be set aside either by the alleged lunatic or those who represent him."† If an action is brought to recover money paid under a contract upon the ground of the plaintiff's lunacy, and the issue is, whether at the time of the particular transaction the fact of the plaintiff's insanity was known to the defendant, evidence as to the plaintiff's conduct upon various occasions both before and after the date of the particular transaction, with a view to showing that the malady under which the plaintiff laboured, was of such a kind as would make itself apparent to the defendant at the time of the said transaction, will be admissible.‡ Yet a man, by bare execution of an instrument under seal, does not make it his deed, if, at the time of the execution, he was so weak-minded as to be incapable of understanding it when explained to him;§ but a deed executed by a lunatic during a lucid interval is binding upon him, but the *onus*

* See Beverley's case, 4 Rop. 123 b., Co. Litt. 247 b.

† Judgm. 2 Exch. 503. See also Dane *v.* Kirkwall, 8 Car. and G. 679; Brown *v.* Jodrell, 3 Car. and P. 30; Niell *v.* Morley, 9 Ves. 478; Alcock *v.* Alcock, 3. Mac. and G. 268; Tarbuck *v.* Bisphan, 2 M. and W. 2; Frost *v.* Bevan, 22 L. J. Chanc. 638.

‡ Bevan *v.* M'Donnell, 10 Exch. 184.

§ Shelf, Lunatics, 2nd edition, p. 338.

of proving that it was so executed lies upon the party claiming under the deed. Mere imbecility is not of itself sufficient to render void a contract, unless an appreciable incapacity of understanding and acting with discretion in the ordinary affairs of life results therefrom. Such incapacity, it has been said, affords the true test of what amount of unsoundness of mind will avoid a deed at law. While mere weakness of mind will not render void the contracts of the party labouring under this disability, it will be a material circumstance in establishing an inference of unfair practice, fraud, or imposition.*

Did we not say that our laws grew and were not made? and does not even the above sketch of their progress in one direction bear out the assertion? Are not clothes best shaped by the nimble fingers of "wear?" and have not our ancestors been the living models that these our laws have been shaped on? Are we not gainers in comfort by their pains? Who has not considered that it would be the height of luxury to have some one with feet like our own to wear our new boots for us? and have not our great ancestors, with feelings very like our own, worn our new laws for us until there is some comfort in them. Yet our ancestors are at the wall in these days. We thank them for nothing but the anomalies they left, which we have to do away. This is a future-looking age.

The greatest difficulty as to a satisfactory definition of insanity has arisen in connection with criminal cases. It is laid down in our criminal law books that a wrong intent, or something equivalent thereto, is an essential element in crime, and there is no word, the meaning of which it is more important clearly to understand, than the word "intention" in its relation to the criminal law. "Intention" in this relation is not simply purpose or design. It is clearly distinguishable from motive, which is, as it were, the goal of an action. Yet, while it is distinguishable, it is not always distinguished. The fact that the motive which led to the commission of a certain act is one of the most prominent points in the proof of the intention, has only too frequently produced some confusion of thought. But it must be remembered that it is the "intention" and not the "motive" which gives in law the character and quality to an act.

* Kent Com., 10th ed., vol. ii, p. 609. See per Lord Cranworth, C., 6 H. L. Ca. 45. See also Story, sec. 234—238; Longman *v.* Ledger, 2 Gif. 157; Nottedge *v.* Prince, 2 Gif. 246.

And it is essential to bear in mind the fact, "that the intention to do the act exists for all criminal purposes where it is wilfully done, although the act itself was merely the means of obtaining some ulterior object."* For example, if a man removes a piece of property from another's house without the consent of the owner, with the intent to convert it to his own use, and thereby despoil the owner of it, in that case he is guilty of theft. If, however, he takes it, believing it to be his own, or with the intention of returning it anon, he commits a trespass, but is not guilty of theft. And if he takes it in a case where he is justified by law in so doing, as in distress for rent due by the owner of the article, he is not guilty of theft, neither does he commit a trespass. In each of these cases the act done is the same, but the intention varies the legal consequences of the act, and it is by the intention that the question whether the individual has subjected himself to civil or criminal consequences, or whether he shall be regarded as altogether innocent, must be decided. In certain cases, however, the statute law† has declared that such and such acts shall be criminal, and has associated with a proof of the commission of the act certain penalties. In such cases an inquiry as to the intention of the party is not of the same primary importance. In another class of cases the legislature has thought it prudent to declare that there shall be a presumption of criminality associated with the commission of the act, and in that way throws upon the party proved to have committed the act in question the *onus* of proving that it was done with an innocent intent. In the third class, however, the intention of the individual is of the most material importance, and, in order to secure a conviction, the criminal intention must be satisfactorily proved. It was laid down by Lord Mansfield as generally true‡ that, where an act in itself indifferent, if done with a particular intent, becomes criminal, there the intent must be proved and found by the jury; but where the act is in itself unlawful, the proof of justification or excuse lies on the defendant, and in failure thereof the law implies a criminal intent. A "guilty mind" is, however, as we have seen, essential to the conception of a crime in a very large class of cases;§ and a

* Cr. L. Com., 4th Rep., p. 15.

† See 24 and 25 Vic., c. 96, sec. 58.

‡ R. *v.* Woodfall, 5 Burr. 2667.

§ See (*ex. gr.*) Reg. *v.* Thomas, 1 S. & C. C. c. 313.

"guilty mind" is said to be present in every case of intentional or voluntary wrong where the mind is actively in fault, and also in those cases where the mind, although not actively in fault, is yet the cause through its passivity—it may be by neglecting to exercise sufficient caution—of some hurt or damage. Having considered the meaning of the word "intention" as understood in law, we return to the statement that a wrong intent is an essential element in crime, and the question as to how this intention is to be proved. In our law the jury are justified in inferring the intent from overt acts, because every man, as well in criminal as in civil * procedure, must be taken to have intended that which is the necessary or natural consequence of his act; and, said Lord Ellenborough, Chief Justice,† "When a man is charged with doing an act, of which the probable consequences may be highly injurious, the intention is an inference resulting from the doing of the act." And Littledale, J., has laid down the principle that if a result be the probable consequence of an act, the doer is answerable as if it were his actual object. "If," he went on to remark, "the experience of mankind must lead any one to expect the result, he will be answerable for it."‡ It is quite evident that a man's motives and intentions, which are hidden things, can only be inferred from his acts and words. Acts are the language of motives, as words are of thought. It is, of course, impossible to punish mere intention, and it is only when the intention becomes, as it were, the fœtus of the act, in an attempt, that the law can take cognisance of it. The intention is, indeed, a bird's-eye view of the act. You can only judge of it in law when the act is done, as you can only judge of the bird's-eye view when you are above the plane. We are now in a position to consider the capacity to commit crime. The statement of the proposition, that the criminal law looks mainly to the intention which actuated the accused, has been said§ to "imply the presumption that the individual whom it is sought to bring within the operation of the law has mental capacity, is a free agent, and possesses the power of electing to abstain from what is forbidden rather than suffer the

* Per Cresswell, J., 12 C. B. 98; per Jervis, C. J., Id. 103, cited Arg. 8 Exch. 229.

† R. *v.* Dixon, 3 M. and S. 15; R. *v.* Philip, 1 Mor. cc. 263, 274; Reg. *v.* Hill, 8 Car. and P. 274. See Broom's Com., p. 866, *note.*

‡ R. *v.* Moore, 3 B. and Ad. 184, 188.

§ Broom's Com., p. 869.

consequences of offending;" and the criminal law of England therefore declines to punish where the actor, from want of understanding or mental disease, is not in a position to choose freely; and it might probably be added, where, through such enfeeblement or derangement, motives have lost their power of making a man choose the good rather than the bad, and the pleasant rather than the disagreeable. It is the same principle that induces the law to exempt very young children from the criminal responsibility of their acts; and the same principle is to be found as the reason for the non-infliction of legal penalties where the individual is, against his will, compelled to do a wrongful act, inasmuch as the dread of distantly future penalties cannot in reason be expected to prevail against the fear of present suffering. Were it more generally understood—were it more thoroughly appreciated—that it is really the same fundamental principle which induces the law to forego its penalties, even after proof of the criminal act done in these two classes of cases, less difficulty would undoubtedly arise in practice as to what amount and what kind of insanity is sufficient to establish a claim to immunity from punishment. Were it once held that the proof of that amount of insanity would relieve from the consequences of a criminal act which deprives the individual, either by amentia, dementia, or mania, of that amount of free will or choice—of that power to balance and appreciate motives which is found in the ordinary ranks of mankind,—were it held that the amount of insanity which deprives a man of this, as the amount of duress which deprives a sane man of the same power,—would relieve an individual of criminal responsibility, no doubt could, it seems, in any case arise. In the examination of a case where duress is pleaded, as in the case of a crime committed by a *feme covert*, acting *sub potestate viri*, as an excuse for criminal misconduct, special circumstances may be given in evidence to repel or support the presumption of coercion. In a case of alleged insanity, then, if the individual suffering from enfeeblement of intellect, delusion, or any other form of mental aberration, was looked upon as, to the extent of this delusion, under the influence of duress (the dire duress of self), and in so far incapacitated to choose the good and eschew the evil, in so far, it seems to us, would the requirements of the law be fulfilled; and in that way it would afford an opening, by the evidence of experts, for the proof

of the amount of self-duress in each individual case, and thus alone can the criterion of law and the criterion of the inductive science of medical psychology be made to coincide. Several well-known cases indicate under what circumstances persons *non compotes mentis* will, in relation to the criminal law as it at present stands, be held irresponsible.

It is to be remembered that the aim and object of civil punishment is *to deter*;* and it will be useless, with regard to its end as looked at in relation to others than the criminal himself, if they through mental defects are unable to appreciate its meaning and nature, or are coerced by some overruling principle which is equivalent to the overmastering dread in the definition of duress. In similar cases the punishment will, of course, fail—except in the case in which punishment, once for all, deprives of all power to exercise the will—in its second end or object, according to Beccario, that of deterring the criminal himself from again committing the same crime. But to say that in no case of insanity will the fear of punishment or the hope of reward deter the criminally-disposed lunatic from committing a crime, is to say what is denied by the experience of every director and superintendent of the insane throughout this country, who are in the daily habit of enforcing a code of discipline with the view of maintaining internal order in the establishments under their control; and to assert what no one in this country who has the least knowledge of the subject will believe—viz., that mental unsoundness is incompatible with crime. Indeed, cases come every day under the cognizance of those who have to do with the insane, in which the criminal act is entirely beyond the sphere and influence of the reigning delusion, and, accordingly, in so far as that delusion is concerned, the product of a sound mind.

In order to illustrate the above statement of what we understand the law to be at the present time, and as further indicating to what extent and under what circumstances we imagine mental derangement or insanity might, in the eye of the law, excuse from the ordinary consequences of crime, we will allude to one or two cases.

In the Hadfield case,† a trial of an individual for shooting at the king in Drury Lane Theatre in 1800, Mr. Erskine said, "It is

* Beccar. Cr., cap. 12.

† 27 How, St. Tr. 1309—1310.

agreed by all jurists, and it is established by the law of this and every other country, that it is the reason of man which makes him accountable for his actions, and that the deprivation of reason acquits him of crime." By the same case, the principle, that in order to exempt from the consequences of a criminal act it was not necessary to prove a total deprivation of memory and understanding, which, up to that time, had been the tenet, was firmly established. But the law has been censured much and often because it has refused, provided a man be *non compos mentis*, to measure the degree of his capacity. And yet the difficulty of measuring every man's capacity, and the rigorous adjustment of the punishment to the amount of criminality, is so great,—nay, so thoroughly beyond the power of any tribunal,—that the law has very properly refused to attempt to gauge guilt and accurately apportion punishment. When the legislature determines that a certain punishment shall be associated in all cases with the proved commission of a certain crime, to demand the weighing out of a so-called justice as we weigh out pounds of sugar, is absurd. When law says a man shall be hanged by the neck till he is dead, and two men, A and B, suffer this extreme penalty of the law,—is that the same punishment to A, who has just come into life with a million possibilities which the incubating future may hatch; and to B, whose possibilities have turned out addled. Why! some men would drain the veins of children to live through their death, while others are glad to be hurled

"Anywhere, anywhere,
Out of the world."

Can we mete out justice? Is it not for heaven to do justice? Is it not for the law to prevent crime? And the way to do so is not to attempt to apportion punishment to every individual crime, but to prescribe a certain penalty as an all-sufficient motive to keep all sane men from the commission of the crime in question. Because A is a man with a calibre infinitely less than that of B, he is still in law held to be bound by his contracts, responsible for his acts, and may exercise all the privileges vouchsafed to a citizen of the state to which he belongs. That there is a higher law which demands greater probity from the one than from the other—that there is a higher law which makes the true responsibility of

the latter greater than that of the former, and renders the privileges of the one who has the capacity of higher enjoyment infinitely greater than those of the other—may be true; but that such law is not the law of England is a fact, and that, even if it were possible, it is well that it should not be the law of England, is quite capable of proof. While it is admitted that gratitude and charity, kindness and goodness, are of the highest importance to the welfare of the individual and the community, yet, even by the equity jurisprudence of this and of every other civilised nation, they are left to be enforced *in foro conscientiæ*, upon account of the difficulty of framing any general rules to meet matters of that kind, and from the mischief and inconvenience which would arise from attempting to enforce such duties. From similar reasons, and for the paramount reason that laws are for the prevention of mischief, the legislature has refused to graduate responsibility; and he alone, in the estimation of our criminal law, is irresponsible who is *non compos mentis*. We have, however, already pointed out that it is not every degree of insanity which exempts from punishment on the ground that its existence is inconsistent with the criminal intent. Many men are affected by one delusion, and to say that such men could in no way commit crimes—to say that the existence of epilepsy would render the victim of *petit mal* irresponsible for his act in case he forged or stole—and some medical men have gone so far as to hazard assertions of a similar kind—is as absurd as to demand that all criminals shall be looked upon as under the influence of diseased organism, and that they should be treated with the leech or the lancet, or any system of medicine that may for the time being be in vogue, rather than with the tread-wheel or pillory. We cannot get ordinary common-sense people to believe that every man steals just because he cannot help it, and that virtue is just as much a necessity of some organisms as the expiration of hydrogen is of others. No! Common-sense people are pig-headed, and think that if an ordinary man kicks you, and you thrash him in consequence, and give him to understand that the next time he raises his foot with a similar intention you will repeat the chastisement,—those pig-headed common-sense folk have an idea that, in most cases, the individual's organism will *not* force him to raise his foot again. Those pig-headed people believe that it is possible to supply motives to those people who do not see that it is for their

own interest to respect their neighbours' feeling and property, and that government, as the motive administrator, can, in most cases, give considerable security by this means to life and property. And, strange to say, the principle of the law in declaring certain punishments with the view of preventing mischief—which is ultimately reducible to pain—is precisely the same as that which actuates those pig-headed people who are guided by common sense. Now, it has seemed reasonable to the law that, seeing that the insane are really, for many purposes, sane—and we are told by medical men of lunatics with whom you may converse for hours without discovering the fact of insanity, and these lunatics are evidently for the purpose of the said conversation sane,—we say, it has seemed reasonable to the law that as lunatics are sane for many purposes, they should for those purposes be looked upon as sane. Thus the law allows a man, although labouring under delusions in certain cases, to give evidence on a criminal trial in a court of law, and in this respect it treats him as accountable; and it is evident, as Alderson, Baron, observed,* that a man may be *non compos mentis quoad hoc*, and yet not *non compos mentis* altogether. In the M'Naughton case,† the accused was charged with murder, and the defence of insanity was set up, as there could be no doubt as to the fact of the wilful homicide. The prisoner was acquitted; and this case led to a discussion in the House of Lords, which resulted in a series of questions being proposed to the Judges, and from the answers which were given to those questions the degree of criminal responsibility attaching to one affected by mental disease is to be ascertained. The first question was—"What is the law respecting alleged crimes committed by persons afflicted with insane delusions in respect of one or more particular subjects or persons; as, for instance, where at the time of the commission of the alleged crime the accused knew he was acting contrary to law, but did the act complained of with a view, under the influence of insane delusion, of redressing or avenging some supposed grievance or injury, or of producing some supposed public benefit?" The answer given to this question was, that a person labouring under such partial delusion, and not being in other respects insane, although he did the act complained of with a view, under the influence of insane delu-

* 2 Den. C. C. 20.

† 10 Cl. and F. 200. See Reg. *v.* Townley, 3 Frost. 839.

sion, of redressing or avenging some supposed grievance or injury, or of producing some public benefit, is nevertheless punishable according to the nature of the crime committed, "if he knew at the time of committing such crime that he was acting contrary to law,"* *i. e.*, the law of the land. We shall return to the answer given to this first question; in the mean time, we proceed to consider what other lessons in the eyes of lawyers these answers teach. The second answer sets forth that every man is presumed by the law to be sane, and to possess a sufficient degree of reason to be responsible for his crimes until the contrary be proved to the satisfaction of the jury, and that this legal presumption must be brought under the notice of the jury in every case where an individual alleged to be afflicted with insane delusions respecting one or more particular subjects or persons is charged with the commission of a crime, and insanity is set up as a defence. In conformity with the rest of the answer to the second question, the proposition which comes before the jury, and the question they have to decide, is, whether the party accused had a sufficient degree of reason to know that he was doing an act which was wrong. The third question was not answered. The fourth was: It is a question of frequent occurrence in criminal courts, whether a person who, under an insane delusion as to existing facts, commits an offence, in consequence of such delusion, he is to be held excused; and the answer ordinarily given is similar to that given by the Judges, that if the individual accused of the crime labours under a partial delusion only, and is not in other respects insane—and that such cases do occur is admitted by every medical witness—he shall be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real. Thus, if a man is under the impression that another is attempting to take his life, and if it can be shown that any act upon the part of the latter—taking into consideration the form of the manifestation of his insanity—was calculated to induce the former to believe that his death was really compassed, and he thereupon kills the man, as he supposes in self-defence, in that case he would be exempt from punishment; or where a man is under the belief that his wife is unfaithful to him, and he kills her supposed paramour under the influence of insane jealousy, in this case, it would appear that the

* 10 Cl. and F. 209.

homicide would amount only to manslaughter, and not to murder. If, on the other hand, a man believed that a neighbour had insulted him, and it could be proved that the individual was not in other respects insane, and, in consequence of this delusion, the individual killed his neighbour in revenge for the supposed insult, he would, according to our law, be liable to punishment; and, although many medical men have argued that punishment, under the circumstances above supposed, would be unjust, it seems to us, remembering that the law is not merely a committee of the lunatics who live under it, but is, as it were, the trustee for the whole community, and that its duties to sane men are not less important, nay—seeing that, as yet, sane men are more numerous than insane men,—more important to the sane than to the insane members of the community; that the law, as it stands at present with regard to the responsibility of individuals under the influence of an insane delusion as to existing facts, is satisfactory. We are, however, unable to use the same terms with reference to the first and second answers of the Judges that we have used with regard to the fourth. Indeed, those answers, which may be regarded as the authoritative statement of the criminal law in its relation to insanity, are not in accordance with the best scientific opinions; and looked at in the light of modern science, the definition of what shall be regarded as insanity in criminal cases is eminently unsatisfactory. To hold that a person who commits an act under the influence of an insane delusion with the view of avenging some supposed injury, or redressing some supposed wrong, is liable to punishment, if, at the time of committing the act, he knew he was acting contrary to law, is almost equivalent to declaring that the plea of insanity shall not be pleaded in criminal cases, and is certainly not a great advance in the way of legislation upon Lord Lyndhurst's* definition of responsibility, viz., the belief of the accused that his act was not a crime against the law of God and nature, or on the still older definition of Lord Coke, "that to protect a man from criminal responsibility, there must be a *total* deprivation of memory and understanding." It is almost invariably the case that the accused person was fully aware of the heinousness of the act, and is, at the same time, aware that it is peremptorily forbidden by the law of the land as well as by the law of God and nature; and yet the act is done under the influence of an insane

* Rex *v.* Orford. See Mansfield, C. J., in Rex *v.* Bellingham.

delusion and impulse which the individual has no power to resist. It is unnecessary to accumulate evidence upon this point. The medical witnesses who come before our courts of law in these days, with a more thorough and scientific knowledge of the human mind in its healthy and diseased conditions, are at one upon the point just stated. Further, it seems to us that this, the answer to the first question, is, in a true sense, incompatible with the answer to the fourth. Why an individual labouring under a delusion as to an existing state of facts—for instance, the attempt upon his life—should, if he commits a criminal act in direct consequence thereof—as killing an individual in supposed self-defence—be held to be irresponsible; while an individual afflicted by an insane delusion in respect of some particular subjects or persons—for instance, believing that an individual was the devil in person—should, if he commits a criminal act in direct consequence thereof—as maiming the individual he supposed to be the devil, in accordance with that higher law which encourages resistance—because he knows that assault and battery is contrary to law, be held responsible, it is very difficult to say. The distinction as to a delusion concerning an existing state of facts, and in respect to one or more particular subjects or persons, is, we suspect, worth nothing. To assert that a man can be afflicted with an insane delusion with respect to one or more particular subjects or persons without, at the same time, having erroneous impressions with respect to an existing state of facts, seems to us absurd. And as to the knowledge of the accused that the act was contrary to law, we have only to remark that, in the case where he believes a neighbour is attempting to deprive him of life, and he kills him—or in the case where he believes his wife is unfaithful to him, and he kills her paramour,—in both of these cases he is perfectly conscious that he is acting contrary to law; but the higher law of self-defence, or the protection of his honour, excuses the individual proved to be labouring under a delusion with regard to the facts from the consequences of a breach of the law of the country in which he resides. In many cases that could be put, in which an individual is afflicted with a delusion as to one or more particular persons or subjects, it will be found that, although the individual is conscious that a law forbids the act, yet some more peremptory mandate—it may be the voice of God, or an impulse as irresistible as that which makes a man draw his hand away from a

burning brand—overcomes the voice of the municipal law, as a thunderclap drowns the still small voice. God may be in the latter, and the devil in the former, but the human ear hears the roar and does not hear the whisper!

Further, the principle laid down in this answer seems to us to be at variance with the dicta of several very able Judges, above quoted,* with reference to the proof of intention. In many cases we saw that intention to commit crime was to be inferred from the acts of the accused, and Lord Ellenborough, Chief Justice, laid it down as a universal principle "that, when a man is charged with doing an act of which the probable consequences may be highly injurious, the intention is an inference of law resulting from the doing of the act." And we saw that Littledale, J., explained that "the probable consequences of an act" were to be judged of by the ordinary "experience of mankind." In any case, then, it occurs to us, in which a delusion respecting one or more particular persons or subjects, or in which mental enfeeblement incapacitated the accused from appreciating the experience of mankind, and in that way incapacitated him from anticipating the consequences of his act, the individual should be held incapable of committing any of that class of crimes in which proof of intention is necessary to the conviction. But, upon the other hand, it does not seem clear to us that, in all cases, the same class of persons should be exempted from the legal consequences of their acts when they fall within that class of crimes which the statute law expressly declares to be criminal, and in connexion with which it has further declared that a certain punishment shall be inflicted.

A German jurist,† appreciating the weight of the medical testimony in criminal cases, has maintained that two conditions are required to constitute that freedom of will which is essential to responsibility —viz., a knowledge of good and evil, and the facility of choosing between them. This definition is perhaps more nearly correct than most that have been given; but it seems to us, looked at in reference to the most recent philosophical researches, and also in relation to the duty of the law to protect the sane from injury, as well as to protect the insane from unnecessary useless punishment, that the best definition that can be given of legal responsibility is a knowledge that certain acts are permitted by law, and that certain acts are con-

* Page 17, etc. † Dr. Mittermaier.

trary to law, and combined with this knowledge the power to appreciate and be moved by the ordinary motives which influence the actions of mankind.

If a man has no sense of pain, he will not learn to dread the fire by being burned. If it is the same to a man whether he take asafœtida or sugar into his mouth; if it is the same to him whether his neighbours praise or disparage him; if it is the same to him whether he have or have not liberty,—then any of the laws that are at present in force in this and in other civilised countries are utterly inapplicable to him, and, as they do not apply to him, he is not responsible to them. But if a man, be he sane or insane, is capable with regard to the act in question of being deterred by fear of punishment —if, like the ordinary criminal, it was a belief in the probability of escaping detection that weighed on the side of committing the act—if it was mainly the ordinary motives which led to the commission of the crime, and if a preponderance of ordinary motives would have deterred,—then the criminal laws of this land are applicable to the accused, and he is responsible to those laws, and has no claim to be exempted from punishment on the ground of mental enfeeblement or derangement of intellect. It is to be remembered that a criminal code has been made with reference to those who are in many respects defective human beings. Certain penalties have been declared as the consequences of certain acts, and it is to be remembered that the law is excellent only where, with its punishments, it emphasises the assertions of nature. Laws are for those who cannot see that their truest good lies in order; for those who are incapable of appreciating the fact that honesty and virtue and peace are the conditions of the greatest possible happiness. The wise man would not steal, whether there were a statute-book or no. The good man has a hundred motives for respecting the life of his neighbour besides the fear of a shameful death. But while the statute law supplies certain powerful and easily appreciated motives to guide the actions of those who are so weak as not to see what is for their real advantage—of those who have so little self-control that, without the fear of immediate punishment, they could not respect the property of their neighbours,—it does not, after prescribing one set of punishments for such classes, make, as it were, a second storey of the statute-book, and prescribe other punishments for those who, even with the motives supplied by law, are unable either to see what is best for them, or unable to

restrain their desires, although conscious that punishment will follow. It confesses that there are certain classes to whom the law can supply no motive sufficiently strong to induce them to conform to certain rules, and it looks upon those persons as insane and as irresponsible; as punishment of those individuals would fail first in reforming the criminal himself; second, in deterring others of the same class from committing a similar offence: although it might, as an example, deter others, the law does not punish such persons, but contents itself by protecting the community from the commission of the crime again by the same individual. That the above is a sound principle on which to proceed in all cases to the determination of the question of responsibility—that it avoids many intricate metaphysical questions, utterly out of place in a court of law, as to the freedom of the will; and that it will tend to fulfil the true and full function of criminal legislation, will, we feel somewhat confident, appear from a thorough examination of the subject, and may even, we hope, be gathered from what has been said in this chapter.

CHAPTER II.

ON THE CAUSES OF INSANITY.

Those who seek the rainbow are like those who hunt for a cause. And yet it is a great chase. The past is ransacked, and that great digestive system which has supplied the energy for the present, is found to be like a tunnel with an exit at the other end, and no cause anywhere in it. Cause! who can get at the cause? The cause of anything in the present is the whole past! But we have to limit our inquiry to the little things which are next in point of succession to the effect-events of our time; and we call them causes, without raising the metaphysical question. Two things known together, mean knowledge—that is all we know. It is in this light, then, that we must look at the question of the etiology of insanity. Who can say what are the causes of insanity? One must enter into a synthesis of causes, and confess that the man is half the cause of his own hurt, if he is pierced by an arrow, and that he is half the cause of his own disease, if through any combination of circumstances he becomes insane. Life is like a long string of algebraic figures, with the signs plus (+) and minus (—) before each quantity. They are always varying and being carried over from one side to the other of the equation which is to determine the value of x, which stands for health. Who can work it out, till death reduces the value of x to 0? Well, he who would say why a man goes insane, would require a complete and thorough biography of the man, would require to know the influences he fell heir to, the rails which were laid down for him to run on before he was born, by the material fate of hereditary transmission. "Every man carries his destiny on his forehead," say the Mohammedans; but not on his forehead only, say we. Every nerve has an iron destiny forged in the past. Man is like a watch wound up by fate, to go for a season; he is made for

good or evil, by the past; and it is not the present that predetermines the future, but the past that predetermines all time. And what past went before that past? Was it He who was before time? The question is a great one, and not to be answered with a little footrule of common sense. One thing alone seems certain, that any answer to the question, as to what causes insanity,—save that "through all time, if we read aright, sin was, is, and will be the parent of misery," and misery is the parent—and often the child resembles the sire—of insanity,—is almost impossible. But the question narrows itself on account of our inability to answer it. It comes to be a small question, with a little creeping answer, always tentative, always on its hands and knees, always groping in the great darkness.

Causes, then, which are thought at the present time to conduce to insanity, have been divided into predisposing and exciting, and into physical and moral. One thing is clear, whether there is nothing but mind, or nothing but matter; and that is, that the one set of these causes, in so far as we are here concerned, may be regarded as operating through, or by means of, the other. If mind is a manifestation of body, it is quite evident that moral causes are causes only on account of the physical changes which they produce. If mind manifests itself through body (which may be the objective idea), and it is with those manifestations that we have to do in this place; and if, as bad glass distorts the images we see through it, by twisting the rays of light, so defective organism, or the lack of power to adapt subjective ideas to the objective idea, may distort the manifestations of mind,—it is with the cause of this distortion that we have here to do.

I. *Of Remote or Predisposing Causes.*—Civilization, it is said, has led to an increase of insanity. Statistics, in so far as they bear upon this question, are rubbish. We are told that insanity is rare amongst uncivilized peoples, and that in this country 1 in every 500 is mad. Does that statement afford any figures for comparison? What is "common" expressed in numerical relation? And if it were settled, what would it prove? Not what it is meant to establish, it seems to us. We hear, however, that theoretical considerations lead one to suppose that insanity has increased, and that civilization is the predisposing cause. Those theoretical considerations, as explained by Dr. Maudsley, are, that as in a complex

organization like the human body, there is a greater liability to disease, and the possibility of many more diseases, so in the increased complexity of the mental organization, it is reasonable to expect an increased liability to mental disorder. But why? In the first place, he assumes a fact; and in the second, we know that notwithstanding the increased complexity of structure of the human body, notwithstanding the number of kinds of tissues, and the orderly subordination of parts, that "man seems in his transitions from one climate to another to resemble domestic animals, with this difference, that he bears those changes better in proportion as he is civilized."* Why should not the same principle hold good here? Why should not the more complex mental organization lead to a more careful mode of life? Why should not the higher mental development lead, through science, to the diminution of the disease, through cure, by care in breeding, and by the avoidance of those actions which lead directly or indirectly to abnormal mental conditions?

There is more earnest living in these days, it is true; but why the human mind, which has made for itself the power to be earnest, which has so far overcome barbarism as to have gained the capacity for being "bored,"† should not have at the same time gained the vigour to withstand its unhealthy influences, it is difficult to say. To assert that the tendencies to disease only can be transmitted, is to say what is absurd; but it is to express plainly what seems to have been tacitly assumed in this case, for the sake of argument. Health is inheritable. And he who says, "I gave my children all the health I got," says something better and nobler than he who says, "I gave my children double the property I got from my father."

We confess, it is difficult to see why our present civilization should have produced this bane. That we pet our lunatics, and number them as carefully as David did the people of Israel, is true, and the more we number, the more the plague rages. That the number of lunatics in asylums at the present time is greater than it was in times past is true, but it proves nothing but that asylum accommodation is much increased. That the number calculated to be in England at the present time is greater than it was some years ago, only suggests a more efficient system of ascertaining the actual amount of lunacy throughout the country, or that phases of life are

* Waitz, Anthropology, sec. iv, p. 205.

† See Comte.

now recognised as insanity which were formerly classed under the head, sanity. But all the statistics that can be procured are utterly untrustworthy. It seems to us, however, that another argument tells against the supposition that civilization is a predisposing cause of insanity. Imbecility is the form that mental unsoundness usually assumes in uncivilized countries, while in countries which are advanced in civilization, mania is more common. Surely, then, if the mania has increased under the influence of civilization, imbecility must have decreased in the same proportion. It is surely unfair to ask to be allowed to run with the hare, and at the same time to hunt with the hounds. If civilization has to bear the blame of the one, it ought to have the merit of the other. Again, it is assumed that the conditions of life are less healthy now than of yore. Some gentlemen somewhat inconsistently ascribe insanity in man to the awful struggle to get rich, and ascribe the same disease in woman to the want of this struggle. But how does our age differ from others in this respect? Had they no struggles in time past? The struggle for bread with the gnawing tooth of hunger for a spur? Is the death-struggle less deleterious to mental health than the miser's grasp? But the struggle sharpens wits: men are "moulded through their faults" and their misfortunes. Adversity wears a jewel in its head. Even this struggle for money, which takes not a few of our fellows into the dust and mud by day, makes nature more and more man's handmaiden.

One author* endeavours to show that the law of nature which throws aside the weak and useless, and gives life's battle to the strong, causes insanity. He illustrates this principle by the dominion of man over weak woman—shows that some women, under the present system, must sin to live, and that marriage is the true and pure woman's goal; he asserts that, in consequence of various circumstances, they cannot all get married, and, having no real work to do, that which was meant for honey, turns to gall: "sweet wants" have been in the heart in vain; desires have withered, because there was no answer to those demands of nature. That marriage is the chief end of a woman's existence, is, according to this author, due to the fact that for centuries women have suffered deprivation of liberty, have been in servitude to man, and have been taught that to minister in one way to man's enjoyment was

* Dr. Maudsley, in his 'Psychology and Pathology of Mind.'

their highest function—that, when this hope fails, the heart and brain sicken, and they go mad.

Nothing is so popular in our days as this kind of reasoning, which is not reasoning at all. One may ask with reference to the above, (1.) Is it a fact, that in consequence of this circumstance women do go insane? (2.) If there are more women, in proportion to the population's calculated number, insane than men? And if these questions could be answered in the affirmative, one might, upon theoretical considerations, think that as Nature trains by means of conditions, if she trained women to look upon sexual intercourse as a goal, Nature has done wrong; and Nature is, to say the least of it, a very bad schoolmistress. If it could be shown that the proportion between men and women varied at the present time from what it formerly did, there might be some weight in the argument. But as that cannot be shown, it is difficult to see how an education of the sex, by means of conditions, to look upon sexual intercourse as a high function, should not all along have included in its curriculum lessons of strength under its deprivation—a strength which would withstand those disturbances which ever rise, according to this author, and which are the proximate causes of insanity. Why Nature, with as good means at her disposal, should teach one lesson and implant certain characteristics in the sex, and refrain from teaching the other, or implanting the other set of characteristics, it is impossible to say. Why, under such circumstances, women should masturbate, become religious, or go mad, or do all three, it is difficult to see.

Overcrowding, and the very great distinction in respect to wealth and luxury, do, along with many other circumstances, lead to insanity; but to adduce these tendencies as proofs of the increase of insanity simply on the ground that they are remotely predisposing causes, is absurd. If the causes of insanity are used at all in this connexion, it must be only by way of comparison (and that a careful one) with those predisposing causes which existed in times past, with a view from their relative potency (if that can be ascertained without solving the question of increase) to argue as to the number of perverts from sanity to insanity, which each of them made. This is a large question; assertion will not meet its demands.

The question as to the influence of civilization is infinitely more

important in relation to the change of type in relation to synthetic etiology, than to the question of increase. That the pursuits, the conditions of social life, the forms of religion, and the direction of national thought, influence and modify character, and in that way modify the quality of insanity, is certain. But it is not for us in this place to examine in what way, or to what extent, this is the case.

Sex.—Women were at one time thought to be more predisposed to insanity than men. Esquirol and Haslam agreed that it was so. But at the present time most writers seem to imagine that men are more prone to mental disease than women. Many writers, in their utter incompetence to deal with figures, which are two-edged swords, have computed the number of patients admitted into one asylum in a certain time, and concluded that the proportion of women to men in these admissions, is likely to be in the proportion of insane women to insane men throughout the world, and hence deduce a theory as to the predisposition. But it is to be remembered that the proportion between the insane of the two sexes is not found to be the same in all countries; and it can be confidently affirmed, that even in the same country, it varies at different periods. The argument as to the weakness of the female sex making her more liable to suffer from adverse circumstances, is, as has been already shown, fallacious. To say that her weakness is brought about by her servitude, and that it is her weakness makes her liable, just in consequence of never having been exposed to risks, is to reason in a circle. One must look at the whole circumstances. If her servitude has made her weak, it has been by protecting her from certain works and hardships which men have undertaken. If those works and hardships are still undertaken by men, then women, as a class, are not exposed to those circumstances which can, together with their weakness, lead to insanity. One circumstance must not be regarded as the predisposing cause of insanity in a class where other circumstances are to be set against it. Rest is produced by forces that *could* move. Women in their present state are said to be less liable to those forms of insanity which occur in men, and can be traced to intemperance and other excesses. But it is their weakness and consequent servitude which have kept them from those works which lead to those excesses. It is absurd, therefore, to say that sex or its weakness predisposes to

insanity. We should say that the numbers of men and of women who go insane, differ little, if at all, and that it is impossible to argue that sex has any influence as a predisposing cause in the production of insanity.

Age.—Children become insane. Wherever there is a mind at all, it may become liable to mental disorder. All the diseases which occur in adults, with the exception of general paralysis, have been observed in children. Idiocy, however, is the most common form of insanity in early life; and not unfrequently, where unusual manifestations of mental activity have occurred at birth, after the convulsions caused by dentition or gastro-intestinal irritation, imbecility has taken the place of the undue excitement of the faculties. Instances of insanity, however, previous to puberty, are rare. It is not uncommon in girls upon the appearance of the menstrual secretion, especially if it is delayed beyond the usual time for making its appearance. Insanity is most frequent at the age when man is at his best,—from 25 to 50 is the stratum of time in which his activity is greatest, and in which, owing to the fact of his activity, he is most exposed to the exciting cause of the disease. "Man's first word," says Hare, "is 'Yes;' his second, 'No;' his third, 'Yes.'" And so the diseases of a life correspond to this process of thought. Idiocy is the absolute affirmation—the very acme of assent. Mania is a universal "No;" and senile dementia is the same blank assent again. Acute forms of mental disease in advanced life are rare. It requires strength to go mad.

Education.—Education is not simply learning to read. The most important lesson a man can learn in youth is to be healthy. Not always to be thinking one needs a pill, but to be thoroughly unconscious of the existence of a stomach, which, like one's friends, only obtrudes itself when it is going to annoy. That education should not make a man clever and bad, is surely true; and that it should try to make him clever and good—which is the exact antithesis of insanity, which is bad and stupid beyond the reach of punishment—is surely the true function of education. But education only too often is conducted upon such universal principles that individuality is altogether overlooked; and very frequently tendencies which were latent, and might in time and with careful training have been eradicated, are made actual and living, and lead to insanity, by and through a pernicious system of education.

Education, properly conducted, might do something to make a compromise between the future and the past. Men inherit debts from nature which many have to pay with death, many with insanity. Education ought to husband and cultivate the assets, and too often it only hastens the end, which is on its way. We have not space to say more concerning education as a predisposing cause.

Hereditary tendency.—So powerful is hereditary predisposition, that in almost every case one can find that the taint has a history. It seems like a river that may dip under the earth for a while, but will flash out on the plain of time a little further down. But it is not insanity only that predisposes to insanity. It grows from slips as well as from the bulb. And epilepsy, hysteria, and neuralgia in the parent, are found to predispose to insanity in the children. Nay, more, it is certain that diseases which do not in the parent specially affect the nervous system, as phthisis, scrofula, syphilis, do in the offspring, in so far as they conduce to a delicate nervous constitution, predispose to insanity. The question as to the hybridity of diseases, if we may so say, is one of much interest and importance. Like other hybrids, however, the prolificacy of the insane seems limited.

As to the proportion of cases in which hereditary predisposition is observable, many opinions have been hazarded. Dr. Burrows says that he found an hereditary tendency in six sevenths of his patients. Moreau argues that it is detectable in nine tenths of the insane. Esquirol stated that a predisposition to insanity is more readily transmitted through the mother than through the father; and Dr. Pagan* has observed that children born before the appearance of mental alienation in the parent are less likely to suffer from the disease than those born after the outbreak of the first attack.

Pregnancy may be regarded as a predisposing cause of insanity. Many cases are on record in which insanity has come on during pregnancy in which suicide has been attempted; and in many cases the nervous irritability, and other peculiarities which occur in the course of gestation, have passed into one of the forms of monomania. Many women look forward with dread to the approaching confinement, which, together with the effect produced by the influence of

* Pagan's 'Medical Jurisprudence,' p. 36.

the organs of reproduction, is sufficient in many cases to bring on insanity.

Delivery has, however, a better right to be considered as a predisposing cause of mental derangement. In the divisions of puerperal insanity into that which occurs during pregnancy, that which occurs at the period of parturition, and that which occurs during lactation, the greater number of recorded cases fall under the second of those three heads. At this period women are peculiarly liable to attacks of insanity. Frequently the form of insanity, or the kind of delusion, is in some way connected with, and dependent upon, the peculiar condition of the organs affected.* In many cases the mothers show a strong aversion to see their children, and often the hatred is so intense as to prompt to acts of violence. The explanation of the frequency of insanity at this period, on the ground that the loss of personal charms, and the consequent extinction of the hope of being still the object of devotion as heretofore, may lead to morbid feelings through mortified vanity, which is given in some books, is absurd and unsatisfactory. Surely the physiological causes are sufficient to account for the predisposition which exists at this period. This seems borne out by the fact, that women at the menstrual period are more prone to attacks of mental disease than at other periods—a circumstance which probably is the cause of the physiological connexion between the moon and lunacy. When lactation ceases, as well as during the time when women are nursing children, there is a tendency to mental excitement which frequently passes into insanity. Many women are insane at the period of giving birth to children, and at no other time suffer from mental unsoundness. The cure of puerperal insanity is very frequent, and we believe that, in good hands, no case of childbirth insanity would last more than a few months if it was treated in its earlier stages. All those physiological conditions which occur at delivery, during lactation, when lactation ceases, and at that period of life when the menstrual secretion stops, render women more susceptible to the influences of the exciting causes of insanity. To assert that the loss of good looks, and the sorrow of wounded vanity consequent thereon, have not any influence in predisposing to mental disease, would merely be *to assert.* But that it ought to be

* See Evidence of Sir James Y. Simpson in Mordaunt *v.* Mordaunt.

considered as a prominent proximate cause of insanity, where there are adequate physiological conditions to account for the genesis of the disease, is to mistake the relative importance of two classes of causes.

Religion.—Some writers have placed religion amongst the list of those things which predispose to insanity. They might, with equal justice, have placed *life* as the predisposing cause of all insanity. It is true that certain forms of religious excitement do tend to foster insanity, but it is equally true that certain kinds of life lead directly to the abnormal condition of mind which we call insanity. It seems to us that religion should be looked upon not as a cause conducing to disease, but as one of those causes which has a most sanitary effect, not as a series of circumstances tending to mental degeneracy and insanity, but as a series of circumstances directly tending to mental improvement and health. Yet we do not deny the fact, that those somewhat excited religious gatherings which have taken place of late years, in which the Lord Jesus is expected to be found in the midst of many fears, much shouting, and an occasional attack of hysteria, do tend directly to mental unsoundness. We would not argue that the extreme form of High-Churchism—the most material form of Christian worship, in which symbolism really often loses its soul, and has nothing but the body left—that the constant and all-absorbing exercises of that form of religion, accompanied as it is with much unhealthy self-examination, and a self-bruising asceticism, will not in many cases predispose to insanity. But we do argue, that religion in its fullest sense, and religion as patterned in the life of Him whose name is connected with the creed of this country at the present time, is not calculated to predispose to insanity, but that, on the contrary, it is calculated to predispose to the most perfect mental health, that it is necessary to that perfect health, and that the human mind finds in that creed, when it is thoroughly understood and earnestly believed, the most thorough and perfect guide to a life of soberness and chastity, faith and well-doing, which are the very conditions of health in the individual practising according to these rules, and of its transmission to those that are to come after them. It is the fashion among a certain class of shallow thinkers to hold that sanity consists in the absence of all prejudices—even Voltaire's one prejudice, the *préjudice de Dieu*—and so to those persons religion and its systems seem prejudice-manufactories,

and thus causes which predispose to insanity. Prejudices! if it were not for prejudices, not a man on earth would be sane, not a man on earth would *be*. These small men themselves are prejudiced against prejudices,—let them reason about that!

Before we cease speaking of the predisposing causes of insanity, we may say that whatever has the effect of debilitating the physical structure, or the moral and intellectual faculties, has more or less tendency, according to the character of the individual, to predispose to mental disease. Moral vices, excessive mental strain, great anxiety, and unusual excitement, all predispose to alienation of mind. Individual temperament, in the widest sense of the term, must be taken into consideration in every case.

II. *Proximate or Exciting Causes.*—An exhaustive treatment of the exciting causes of insanity can only find place in a work on the pathology of mind. In this place the mention of some of the causes which lead directly to insanity must suffice. It must be remembered that the cause which in one case may be looked upon as exciting, must, in another case, be regarded as predisposing. Malformations of the brain—dependent, it may be, upon morbid changes in the skull, the defective development or the arrest of growth of this organ—are all causes which operate powerfully to produce mental unsoundness. The brain-weight in microcephalous idiocy is not only small when compared with the brain-weight of healthy individuals, but the relative weight of the brain to the body of the microcephalic idiot is very much less than the relative weight of the brain to the body of a person in normal health. Injuries to the head which have produced lesion in the structure of the brain, or which have caused disease which has led to a partial disorganization of the part, may be looked upon as exciting causes of mental unsoundness. Tumours in the brain, and many of the alterations produced by organic disease in the cerebrum and its membranes, also proximately conduce to insanity. Starvation and exposure to intense pain, extreme fatigue, as well as apoplexy, palsy, epilepsy, and convulsions of all kinds, are, as it were, open doors to insanity. The sympathy which exists between every part of the bodily organism—

> "Each part calls the furthest brother,
> For head with foot hath private amity"—

leads in many cases to abnormal mental action, either on account of functional derangement, or on account of the structural disease of

some remote part. But there seems to be a more intimate "private amity" between the brain and its neighbours, the stomach, the liver, the intestines, and uterus, than there is between the head and foot. Insanity grows like a graft upon many other diseases, but in certain cases the existence of insanity at the same time as a bodily disease does not seem compatible. Insanity arises not unfrequently upon the suppression of an accustomed discharge, and often accompanies irregularities in the menstrual secretion. Intimately connected with the causes above enumerated are those to which the name "moral" has been given, and which operate banefully upon mental health through the brain. Strong emotions and passions, every circumstance in mental life which is calculated to make a deep impression, and appropriate a large amount of the free mental energy, may, upon occasion, become a cause of insanity. Attention, whose "very quality," according to Goethe, "is that at the moment it makes a nothing all,"—attention, which really is the faculty which distinguishes the great man from the small, so that any man might be great if he only knew how and to what to direct his attention, may, where it too constantly makes "a nothing all," degenerate into the mental unsoundness of a fixed idea. Disappointed love, terror, pride, ambition, anger, jealousy, avarice, all that is good and noble, as well as all that is mean and disgusting, may be a cause of insanity, and the very intensity and constancy of the emotion are the elements which tend to make it the bane of this fever-life, rather than the antidote. "The wine is good, but the vessels are old or crazy." It is to be remembered that in relation to such cases the effects are very often very near in point of time. Terror, that in one not predisposed to mental disease might cause convulsions, will often, in one foredoomed to rave, cause an almost immediate attack of mania. Joy, when very intense, sometimes causes insanity. The "happy medium" must have more joy in it than this dangerous extreme, and would lead us to "welcome each rebuff," or, as a somewhat bold author put it, thank God for our corns. A case is on record which tells the story of two lovers who had made each other perfectly happy, and, possibly fearing what Shelley calls "love's sad satiety," killed themselves. The incursion of those diseases which are caused by sorrow or jealousy is somewhat slower. Sorrow not only steals "the natural hue of health from vermiel lips," and "the lustrous passion from the falcon eye," but steals the something which gives

passion to the eye and sweetness to the vermiel lip. Excessive grief saps the foundation of the mind, as it were, with tears, and every room-faculty gets damp and mouldy. The individual seeks seclusions, hugs the painful ideas, foregoes his usual exercise, avoids a laugh as he would a devil; he loses appetite, digestion, and sleep, and illusions and delusions spring from such soil. We have already examined some of those general causes, which are the great outcomes of human nature in time, as predisposing to insanity. We have shown the extreme difficulty of estimating the effect of those widespread causes; but, notwithstanding the difficulty, it is necessary for the medical querist to make the endeavour, especially with regard to such causes as are to be found in intense political excitement and enthusiasm; remembering, however, that it is brains, which, like casks that have lost their hoops, are constitutionally weak, that give way under the influence of such excitement. That there is some peculiar sympathy between man and man which emphasises individual sentiment, which modifies individual thoughts, is a fact. It is proved by the extraordinary conduct of mobs, the enthusiasm and death-forgetfulness of armies, by the knee-made fervency of worshipping congregations. That the excitement which exists at certain periods of political importance should be increased to an extraordinary extent by its widespread participation with others, was what we were prepared to expect, remembering the well-marked tendency of excitement to increase until actual exhaustion draws the rein. But none could have anticipated the extraordinary outbursts of excitement which have taken place, and which are chronicled in the histories of nations—excitements which have all the marks of frenzy, and might easily be considered as a species of insanity. Even in our own country, in times not very long gone by, the nerves of cool, wise men quivered with the sympathy of humanity, because other men's hearts beat, and other men's brains throbbed with party feeling and political fervour. Just so a harp, untouched by human hands, will send out a little sound, if there is the music of a brass band near. But how infinitely greater was the shock of such world-actions as the Revolution in France. Esquirol has observed, that the more prominent events of French history during the half century before the date at which his words were uttered might be illustrated by cases in the lunatic asylums of that country. Just as a storm tears down trees, and the rivers carry them

to the sea, where they are buried and made stone mummies of, and are for times to come a record of the storm, and of the trees it blew over,—so in the wards of insane hospitals may indices to the political storms of the past be found at the present time. The extraordinary influence of conjoined action, of conjoined excitement, or of conjoined depression, is well understood; and that it leads to insanity among many, as if by the continuance of the same powerful influence, is a fact. That such influences may account for epidemics of insanity suggests itself as a probable solution of that psychological difficulty. We know that certain common physical influences powerfully affect the frequency of epileptic fits and paralytic disorders. We know, however, that common mental influences more powerfully affect such nervous disorders as hysteria; and it is to be argued that the same relation of causes to the persons influenced would produce effects corresponding to the symptoms of epidemics of insanity. It is useless to quote the threadbare story of the seven suicides at the Hôtel des Invalides. But we may mention that which occurred at Versailles, where, in 1793, when the population was only 30,000, no less than 1300 suicides occurred,* and many others of a similar character are upon record. Three cases of attempted suicide occurred in Sheffield in one day only a few months ago.† That such events arise from the causes above alluded to, we are inclined to believe; and that most of the explanations usually offered of such phenomena are unsatisfactory, we confidently assert.

A more minute analysis of the connection between antecedent facts and consequent mental symptoms, would be ill-suited to the general plan of a work on the Medical Jurisprudence of Insanity. An assertion that the connection between organized matter and manifestations of mind is simply that of cause and effect, and is in no way different from the relation between any bodily organ and its function, would, in so far as we are concerned, be absolutely untrue. Indeed, we would deny any such relation; and although we have no right to enter upon such a discussion in this place, it is our duty to warn the reader not to expect in all cases to be able to detect disorganization of brain, accompanied by symptoms of insanity, and to expect to meet with well-marked cases of insanity where no dis-

* Art. "Suicide," 'Dict. des Sciences Med.'—Burrow's Commentaries, p. 438.

† See 'Echo' for May last.

organization of structure is observable. Nor are we to expect to find that there is an invariable proportion between the capacity of the cranium and the amount of mental endowment. It is not so in the race, nor in the individual. This is proved by the researches of Virey, Parchappe, Desmoulins, and others. Nor, where it does occur, are we to look for a traceable proportion between the two classes of phenomena. Many die insane, the insanity simply having been functional derangement through the sympathy of living parts. No trace of structural decay is observable as a post-mortem symptom. Enough, however, has been said concerning the causes of insanity.

CHAPTER III.

OF UNSOUNDNESS OF MIND.

Before it is possible clearly to understand the meaning of the term unsoundness of mind it is, perhaps, necessary to understand what is meant by the term sanity. A deviation can only be appreciated when that from which it is a deviation is known. Now, we say that a person who conducts himself in every respect like his neighbours is sane. A man who is aware of his position, who is conscious of the significance of the objects which surround him, who has certain ends in view, and whose conduct is influenced by his desire to attain those ends—a man who in all these things resembles the ordinary people of the class he lives amongst, may be regarded as sane. Any judgment upon a question of sanity or insanity must be made upon the ground of experience, and our experience of the ordinary conduct of the bulk of mankind must guide us in determining the questions which arise as to sanity or insanity of individuals. Thus, before the time of Galileo, had a man believed that the earth went round the sun, and had that belief been founded upon no evidence, but arisen as delusions generally do, the experience of the conduct of belief of the bulk of mankind would have led to the conclusion that this man was mad, and it would have been right. For it was not merely the ordinary belief of mankind that the sun went round the earth, which has since been found to be an error; but it was the belief of mankind that it is usual for ordinary men to be induced to change a belief from one tenet to another, not arbitrarily, but upon some ground; and if no such reason as would influence the minds of ordinary men exists, then the test of our experience would lead us to determine that this man's conduct was not that of other men. As, therefore, we give the name of sane to the set of circumstances which constitute the conduct of the latter, we give the name of insane to the set of circumstances which constitute the conduct of the former. This man would not have been called mad because he believed the truth, but because he believed a thing which he had every reason not to

believe. A belief in a truth may be a delusion. A delusion is just a prejudice in the flesh.

It has been said that by madness "a lawyer means conduct of a certain character, a physician means a certain disease one of the effects of which is to produce such conduct."* And it has been argued that these two different definitions may have caused the widely different conclusions at which the members of those two professions have arrived. But, perhaps, there is more ingenuity than truth in this description. Medical men infer the existence of disease from symptoms. Some of the most important symptoms which are indicative of the presence of mental disease are to be found in the acts and words of an individual. Even at the present time the greatest difficulty would be felt by the most accomplished expert in determinating the presence of mental disease without the cognizance of these facts, and a diagnosis would be impossible under such circumstances unless he had the advantage of viewing the expression which has resulted from the acts and thoughts of the individual, just as a certain precipitate results from certain kinds of chemical action. A face is a history. Seeing, then, that medical men infer the presence of the disease which they call madness from conduct of a certain character, and that lawyers, according to Mr. Fitzjames Stephens, mean by madness "conduct of a certain character," although they really mean the something which underlies that conduct, the distinction drawn is rather apparent than real. The cause of the difference of opinion which has been described would more probably be found in other circumstances. That lawyers have been too apt to regard insanity as one simple disease, and the fact that thinking thus, and having as they believed found a good legal test for the irresponsibility of those who laboured under it, they applied this test to other diseases as distinct from that to which it was in the first instance applicable, as toothache is from lock-jaw, may to some extent account for the slow progress which that profession has made towards a correct scientific knowledge of this most intricate subject. But lawyers are most conservative of law. When the judges were asked whether capital punishment should be abandoned for the theft of the amount of five shillings they all said "No." We laugh at them now, and yet in other things the judges of the present day are possibly quite as conservative. As a rule, perhaps, the opinion

* Fitzjames Stephens' 'Criminal Law of England,' p. 87.

of a man who has worked long and successfully under a certain system is almost valueless with regard to its faults or merits. Reformers are either men who have suffered under a system, or boys. These tendencies may have led to the tardiness of the legal profession to acknowledge more than one kind of insanity, and to a refusal, by its members, to acknowledge a test—which may with reason have been applied to the determination of the responsibility and capacity of those persons who laboured under one phase of this disease—as utterly inapplicable to many persons who were affected with other kinds of insanity.

But, as we have seen, medical men are not blameless. Physicians with the amplest opportunities for observation have neglected to become thoroughly acquainted with the disease which it was their duty to treat. It is only in recent times that the pathology of insanity has occupied the attention of those who have the means of becoming acquainted with it. Should those careful researches which are at present being prosecuted in our large hospitals for the insane make the progress that the zeal of those conducting them gives us a right to expect, we may hope for better things in future from medical witnesses, and, as a direct consequence, we may expect a more intelligent recognition of undoubted scientific results upon the part of the legal profession. As yet, however, the knowledge of the pathological changes which take place in various kinds of mental disease is very limited. And some anomalies have arisen in the progress of the research which would seem to indicate results which would scarcely have been anticipated; we refer to the frequent discovery of structural changes in the brain which have given rise to no derangement of the functions of that organ, and in other cases the observation of disturbed functions without the discovery of much of any organic changes.

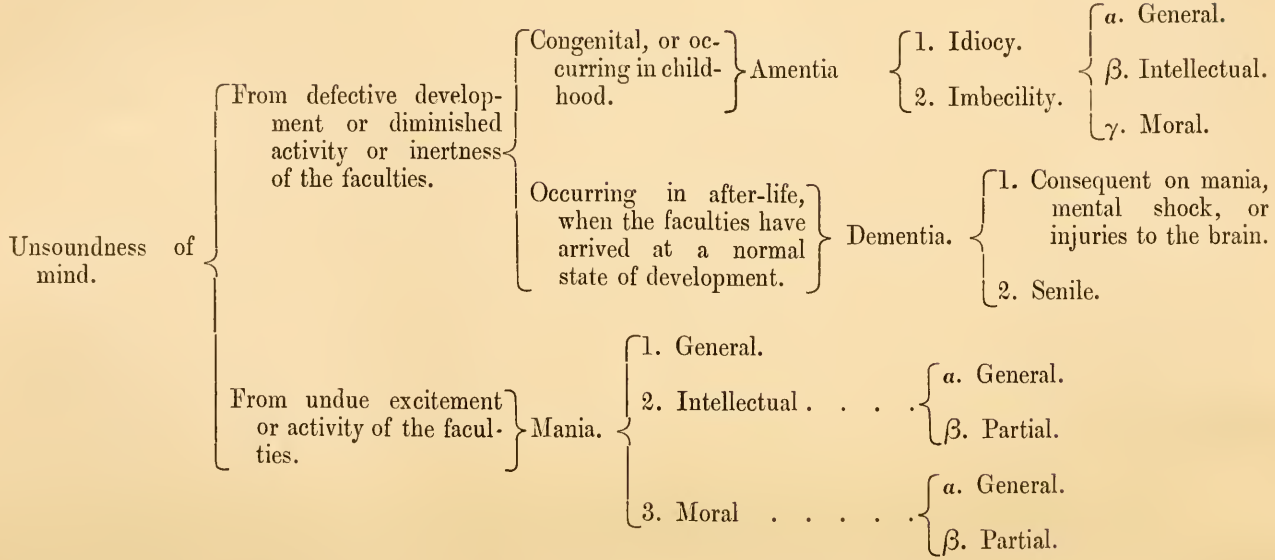
Some classification of the various kinds of mental disease is absolutely necessary. And it is of more importance to those persons who look at insanity from the legal than to those who look at it from the medical point of view. However, there are very many occasions upon which medical men are called upon to give evidence as to the soundness or unsoundness of mind, and for those who are so called to bear testimony such a classification will not be without its value. Those occasions are likely to increase rather than to diminish in number, for a large section of the medical profession

seems to think that insanity is on the increase, and those who are of opinion that it is not, account for the apparent increase by the fact that in the more thorough and wide-spread diffusion of medical knowledge many diseases are now recognised as insanity which were not formerly regarded as belonging to that class of disease. When a man makes a will and dies his relations who are not mentioned in it may dispute its validity. Was the individual, at the time he made his will, in such a mental condition as to possess a testamentary capacity? In such a case the Court of Probate will have recourse to the evidence of medical witnesses. When a man or woman contracts a marriage which is regarded by his or her friends as unaccountable, or which may, by the issue from it, deprive the said friends of a contingent reversion, the question as to whether the person contracting was sane or insane at the time, whether he or she could or could not give a valid consent—consent being the essence of a contract*—will arise, and the evidence of medical witnesses will be required. So if a man squanders his money or commits a crime, the evidence of physicians will be requisite to determine the fact of his sanity or insanity. Besides, there are cases in which insanity is feigned, and it is necessary that medical men should be able to distinguish between the genuine and the simulated. Now, too, no insane person can be incarcerated in a lunatic asylum without the certificates of one or two medical men.† In all these cases it is necessary that the individual physician who is called upon to ascertain the mental condition of another individual should have a somewhat thorough knowledge of insanity, and all thoroughness and clearness is to be best attained by careful classification.

Mental diseases may, then, be divided into two classes—1st, into those which are dependent upon arrested development or diminished activity of the faculties; and, 2nd, those which are due to some functional derangement or organic lesion in the brain or the nervous centres subsequent to what may be regarded as normal development. The former is marked by defective energy or inertness of mind, the latter by undue activity and excitement of the mental faculties. Perhaps the best practical classification of mental diseases for the purposes of those who would become acquainted with them in connection with the legal relations of those who labour under them is that which is given below. It is somewhat the same, in its main features, as that adopted by Esquirol.

* 1 Powell, contr., pp. 9 and 10. See Hardman *v.* Booth, 1 H. and C., pp. 803, 807.

† 16 & 17 Vict., c. 96, ss. 4, 7.


Unsoundness of mind.
From defective development or diminished activity or inertness of the faculties.
Congenital, or occurring in childhood.
Amentia
1. Idiocy.
2. Imbecility.
α. General.
β. Intellectual.
γ. Moral.
Occurring in after-life, when the faculties have arrived at a normal state of development.
Dementia.
1. Consequent on mania, mental shock, or injuries to the brain.
2. Senile.
From undue excitement or activity of the faculties.
Mania.
1. General.
2. Intellectual . . . .
3. Moral . . . . .
α. General.
β. Partial.
α. General.
β. Partial.

We may add another classification of mental diseases which has found some favour in the eyes of the medical profession. We need not point out its errors, which are obvious.

Class I.—Insanity resulting from arrested or impaired development of the brain.	Idiocy, congenital and acquired.
Class II. Idiophrenic Insanity.	(1) Sthenic and asthenic idiopathic insanity. (2) Phrenic insanity (inflammatory). (3) General paresis. (4) Paralysis with insanity. (5) Traumatic insanity. (6) Epileptic insanity.
Class III. Sympathetic Insanity.	Epileptic insanity. Insanity of masturbation. Insanity of pubescence. Climacteric insanity. Ovarian and uterine insanity. Insanity of pregnancy. Puerperal insanity. Post-connubial insanity. Hysterical insanity. Enteric insanity.
Class IV. Anæmic Insanity.	Leucopsoitos (from aberration) Post-febrile insanity. Insanity of lactation.
Class V. Diathetic insanity.	Insanity of tuberculosis. Syphilitic insanity.
Class VI. Toxic Insanity.	Cretinism. Delirium tremens. Insanity of alcoholism. Insanity from opium-eating.
Class VII. Metastatic Insanity.	Rheumatic. Pellagrous. Metastatic insanity from healing of long-established issues.

Note.—Professor Laycock's "Nosological Index," first published in his work on 'Medical Observation and Research,' 2nd edit. p. 342, although eminently suggestive, is of too complex and theoretical a character to be available for practical purposes.

In the first of these methods the mental peculiarities of the patient are the ground of classification; in the latter the mental symptoms are put aside and disregarded, and the forms of disease are classified according to their supposed pathological causes and the relation of these causes to the bodily organism.

No classification is perfect. We must endeavour to obtain that which will be most useful to those who would treat disease, and to those who would understand in what cases mental aberration or defect will modify the relations of an individual to his fellow-countrymen, to his property, and to the state. The classification quoted above which is based upon the pathological cause of the disorder has a look of science about it which will deceive many. It is a fact proved by the everyday experience of those who have to do with mental disease that we find many patients whose insanity, although resulting from exactly similar causes, differs the one from the other in every possible particular. Besides, is it not evident that, to arrive at any conclusion with regard to the cause, we must take into consideration the mental peculiarities of the patient, and thus rise to the classification which pretends to be independent of mental symptoms, through the very classification of peculiarities of mental condition which it pretends to discard? In the above classification it is obvious that there are grave mistakes which present themselves even to those who are only partially acquainted with nosology. Thus, to place Idiopathic Insanity as a sub-class under Idiophrenic Insanity shows how weak the system is. A classification which is understood to be framed according to pathological causes has taken care to have a class where all maladies which cannot be thus classified are to be placed. How large this class is it is impossible to say, but any classification which has under it a class which it is impossible to classify seems to us as satisfactory in its way as an argument which demands the conclusion as a datum. Again, under Class 3, Sympathetic Insanity, we find the sub-classes Climacteric Insanity and Post-connubial Insanity. To pretend to classify diseases according to their pathological causes, and then to state as a cause a whole system of life, or a bodily condition existing for years, is surely unphilosophical. It would be as correct to give as a sub-class "insanity arising from previous conduct." But the errors are too many to allow us to do them the justice of pointing them out, and too obvious to require it.

Upon the whole, consideration induces us to adopt the first of

these two classifications. It is certainly of the utmost importance that a classification should be adopted for the purposes of medical jurists which is easily understood, and the ground of which is to be found in easily observed symptoms. Only in this way will the great gulf which separates medical men and lawyers be bridged over. When, however, mental peculiarities, as inferred from conduct, are taken as the basis of the methodical arrangement of kinds of insanity, or of patients labouring under them, into certain groups, little difficulty is likely to arise; as to a lawyer, insanity is to be inferred from certain acts, not from the existence of a certain cause. It must be remembered that all classifications are defective, and can only be defended on the ground of convenience and expediency, not upon that of absolute correctness or truth. In many cases much difficulty will be found in assigning some mental disorder to any one of the classes above enumerated, and care must always be taken to appreciate the fact that these words are not absolute partitions between diseases. In many cases these peculiarities which have served as a distinguishing feature of one class are found mixed with, or modified by those which have served as the distinguishing features of another. A classification is like a walking-stick, a thing to be of assistance. Yet some children ride on a walking-stick and some men make a hobby of a classification. It is mental weakness which is the cause in each case.

CHAPTER IV.

AMENTIA AND ITS LEGAL RELATIONS.

Amentia has been divided into two distinct kinds—Idiocy and Imbecility. The distinction between these two is far from being accurate. In many cases the utmost difficulty arises in determining the precise degree of mental defect which amounts to idiocy; as, indeed, there is often much difficulty in determining what amount of simple weakness of intellect amounts to imbecility. The question is full of difficulties. We will treat of these two forms of mental defect separately.

Idiocy.—Idiocy is, according to medical men, a state in which, from defective structure of the brain, the individual has been utterly incapacitated from acquiring any such experience as would fit him in any way to fulfil the most trivial duties of his social position. And according to Bacon, "An idiot is a fool or a madman from his nativity, and one who never had any lucid intervals; and such an one is described as a person that cannot number twenty, tell the days of the week, does not know his father or mother, &c. But these are mentioned as instances only; for idiot or not, being a question of fact, must be tried by a jury on inspection."*

Well, an idiot is a person so thoroughly without mind that all mental cultivation has been and is out of the question. It is as difficult to make money without some capital either in money or the power to labour, as to acquire knowledge without a brain. To distinguish idiocy clearly from dementia, with which it is sometimes confounded, it must be remembered that the former is a congenital absence, or at least serious defect, of all the faculties of mind, while

* See also Lord Hatherly in Harrod *v.* Harrod, 1 Kay and Jo. 4; Co. Litt. 274 a, Fitzroy N. B., 233 b, ed. 1794; 1 Hale, P. C. 29; Lord Tenterden, C. J., in Ball *v.* Mannin, 1 D. and Cl., 393, S.C. 3, Bli., N.S., 1; 4 Rep., 124; Lord Hardwicke, C., in Lord Donegal's case, 2 Ves., 408, 1 Bl., Com. 304.

dementia may be regarded as the gradual obliteration of faculties which have been possessed.

Idiots of the lowest type have simply a physical existence, and even that is modified by bodily infirmity, and often by anæsthesia, which would lead to death unless they were very closely watched. In a higher form of idiocy, or a mental condition more nearly approaching to ordinary intelligence, the patients have sensations of heat and cold, hunger and thirst. But it is somewhat difficult to form classes of idiots by reason of the attribute of intelligence possessed by them in a greater or less degree. They almost always agree in these things: they have misshapen heads, large gaping mouths, and their other features are not unfrequently ill-formed and distorted. As for expression! Expression is only thought become external to itself in the flesh, and therefore idiots' faces are marked by an utter want of all expression, and there is little or no power of speech. Some of them, however, utter cries in which ingenuity has found close resemblance to the sounds made by inferior animals. Their limbs and trunk are imperfectly developed, their complexion is generally sallow and unhealthy. Very often one or more of the senses is defective, sometimes one of them is entirely wanting. Only in the rarest cases is the head of full size and well formed. They usually die before the age of thirty.* In idiots it is usual to say that the power of will is entirely deficient; but we shall see more clearly, in considering the legal relations of idiots, what is meant by this phrase. They are sometimes governed by impulses, and at the age of puberty manifest the sexual passion in ways as offensive as the ordinary normal indication of what Goethe calls "the presentment of sweet wants" is beautiful. They are exceedingly irritable, and subject to the most violent fits of passion, and have none of that exquisite sympathy which prevents them from injuring the feelings of another. Imitation influences them not a little, as it does monkeys. It is a power which is always strong in the weak.

In Switzerland idiocy is often accompanied by one special kind of bodily deformity. The thyroid gland becomes enlarged, and this enlargement is known as goitre or bronchocele. But besides this deformity there are others. The stature is generally dwarfed; the belly protuberant; the legs small; the arch of the palate high and narrow; the mouth, from which the saliva is suffered to escape, large and

* Esquirol, 'Maladies Mentales,' vol. ii, p. 284.

misshapen; the teeth irregular; the voice harsh and high pitched; the eyes squinting; the gait feeble and unsteady; the sexual power weak, or altogether absent. Persons afflicted by this disease are in Switzerland and Savoy called *cretins*, and in France *cagots*. It is ascribed to local peculiarities, and is said to prevail mostly in valleys lying among hills, although it has been argued that it only occurs where the people are living upon or drinking the waters which flow over a calcareous formation.

The best opinion seems to be that this mental deficiency, co-existing with this physical defect, is developed some time after the birth of the child. In some cases it is complicated by spinal distortion, in some by hydrocephalus. There is a division of cretins into three classes, but for all the purposes that such a work as this is intended to subserve enough has been said concerning this very curious variety of idiocy.

The legal relations of idiots need not occupy much attention. It almost follows, from what has been said, that an idiot labours under complete civil disability.* The conveyances of idiots are void.† An idiot cannot make a will.‡ An idiot cannot contract marriage.§ Nor can an idiot be elected member of Parliament.‖ It is, however, true that an idiot cannot appear in an action at law by attorney, and even when an attorney is employed for them the idiot should be described as appearing in person, or by guardian, according to the nature of the case.¶ An adult idiot can consent to carnal connection, and is not, as female children are, held incapable of giving consent.**

The reason why idiots should not be held criminally responsible

* It is somewhat curious that in the United States of America, while idiots are deprived of almost all their civil rights, they are, by the constitution of several of the states, left in the enjoyment of the right to vote at elections.

† But see Thompson *v.* Leach. Carth., 435.

‡ 1 Hale, P. C. 229; Bac. Abr. Idiot, a. 1; Beverley's case, 4 Co. Rep., 124 b; Williams, Ex., 16; 4 Burns' Ecc. Law, 55; Ingram *v.* Wyatt, 1 Hagg Ecc., 384.

§ Roll. Ab., 357; 15 Geo. II, c. 30; Browning *v.* Rean, 2 Phill. 90. See also Scotch Law, Fraser i, 48 and 226, Johnston *v.* Brown, Nov. 15, 1823, and Ferg. Rep., p. 229; Sullivan *v.* Sullivan, 2 Hag, p. 246.

‖ Com. Journ., 1625; Com. Dig. Parl. D. 9; Sheph. Elect., 109.

¶ Co. Litt. 135 b; 2 Saund, 212 n; Oulds *v.* Sansom, 5 Taunt, 261. A lunatic may, however, appear by attorney, Beverley's case, Humphreys *v.* Griffiths, 6 Mee and W., 89.

** R. *v.* Ryan, 2 Cox, Cr. Ca., 115, per Platt. B.

for any act which they may commit is obvious. The law takes upon itself to punish crime because it is voluntary, intentional, and malicious. Whenever any act criminal in its nature is committed, the law presumes that the individual was acting wilfully, that the acts were done with some motive or intention, and that that motive or intention was malicious.

Of course any one of these presumptions is liable to be rebutted. By proof of duress you rebut the presumption of the voluntary character of the act. By proof of fraud or imposition the motive may be shown to be other than that which reading back, as it were, from the act in question would have been supposed. If, then, any of these presumptions be rebutted, the crime is disproved. It is quite evident that there is nothing in the character of the act itself which indicates its criminal nature. What in one case is called murder, and punished with death, is in another case called justifiable homicide, and rewarded by a money payment.

Now the proof of idiocy does, by a necessary inference, disprove the existence of will, as it is understood by us, and of malice, or intention, as it is defined by law. And these presumptions, which exist in ordinary cases, having been rebutted, the criminal character of any act done by an idiot is disproved.

It seems a fair conclusion to come to in reference to all those cases that, where approval can be vouchsafed, there also can punishment be, under the opposite circumstances, awarded. In the case of an idiot it would be as absurd to feel a moral approbation upon the ground of any act, as it would be in the case of a steam-engine to indulge in the same feeling upon the ground of any of its motions. Their acts have no moral character.

The principles that enable men to take cognisance of crime at all are found in the fact that a certain uniformity exists in the mental conditions of all men. This uniformity, with its subject variety, is called the normal condition. It is calculated that all men shun pain; that the pursuit of pleasure is universal. And if any very large section of mankind were not so constituted as to be thus operated upon by pleasure and pain, the law would utterly fail with regard to them. It is true that every man follows a different pleasure—every man dreads a different pain. Some dread everything from the great unknown future; others dread everything from the little present. Still the law is founded upon this principle, and

its punishments are awarded upon this ground. But such a fact implies that those to whom an enactment addresses itself possess a certain amount of knowledge. If a man does not possess sufficient experience to conduct the ordinary affairs of life, if he does not comprehend the most simple and ordinary propositions, then it would be absurd to expect him to be influenced by considerations which require for their comprehension a somewhat considerable mental power. To an idiot who does not gain any experience from having once fallen in the fire—who does not understand words, acts of parliament, are not in existence. And to many imbeciles who have the power of speech, who have some powers of acquisition, the proposition that if they do something just now they will suffer something in the time to come, is utterly incomprehensible. It is upon these principles that the law, which is a great lathe upon which human conduct is to be shaped, in accordance with certain principles, regards idiots as irresponsible for their criminal acts. And it is only in the application of these principles to the cases in which mental defect is not very marked, cases in which the individual manifests considerable intelligence, and at the same time great intellectual weakness, that any difficulty arises.

Imbecility.—Imbecility is unsoundness of mind occurring in early childhood. Idiocy we have seen is congenital. Many writers have endeavoured to distinguish idiots from imbeciles by other means. Georget regards the use of speech as a distinguishing characteristic of the imbecile, and the ordinary impression that the imbecile has more mind than the idiot seems to have been adopted by scientific observers as a good means of differentiating these classes. So much may a few months or years of sanity, when a child has just come into the world, do for the mind of the half-ripened man. Others have thought that they were founding a distinction upon another and better principle when they thought that imbeciles were to be regarded as different from idiots in that they had a capacity for instruction. But Georget's distinction is precisely similar, for the fact that an imbecile has speech indicates the past fact of the capacity for instruction. Many men amuse themselves by dressing propositions in different words, as children do by dressing dolls in different dresses.

But the truth is that no real distinction exists between the two, although for convenience they may be kept apart by means of the

two designations. The probability is that imbecility like idiocy is congenital, but that the defect not being so marked in the former as in the latter, being a defect less in degree although the same in kind, that it is not at once observed; and that it is only when the progress of the child in mental stature is seen to be slower than it is in the case of a simply stupid child, that the imbecility is suspected, and the date of its inception is fixed as that of the observation instead of that of the birth. This is as if we asserted that the planet Uranus began to be on the 13th March, 1781, when Sir William Herschel observed it for the first time. Besides it is well to be aware that this distinction is entirely arbitrary, as in many cases it is impossible to distinguish a minor degree of idiocy from a major degree of imbecility.

Just as some people differ from others in the amount of their capacity, in their mental power, so do imbeciles, and so nearly do some imbeciles approach in intelligence the more stupid of the sane that it is sometimes almost impossible to say whether the individual should be classed with idiots or fools. The degree of defect is likely to be accurately indicated by the number of words they are capable of using. Indeed, we may judge of the power of ordinary sane men by simply numbering the words they habitually use. It must be habitual use and not such a use as might be prepared for by means of a cram with reference to this census. The fact that Shakespeare has used 15,000 words, that Milton has used 8000, and that many ordinary day labourers are incapable of using more than 300, throws some light upon this suggestion, and when we go lower in the scale we find it still better illustrated, for many imbciles can only use one word.

One class of imbeciles, then, are incapable of acquiring or retaining knowledge; they are unable to understand or appreciate any of the laws of the land, of the customs of society; they have not sufficient mental power to influence their feelings and emotions by means of reason, and they are incapable of appreciating any of the doctrines of a revealed religion. There seems little reason for applying the term imbecile to these. There is another class, however, in which, together with very considerable capacity for the acquisition of knowledge, and for the retention of memories, there seems to be an entire absence of that power which is used for the determination of the moral qualities of acts. It is very difficult to account for

the peculiar powers we find in some individuals. It is said that—

"Genius does what it must;
Talent does what it can."

but perhaps there is some reason for believing that everything "does what it must." That one man who is able to reason accurately about mathematical problems, one whose wits are nimble to discover an "undistributed middle" in any sieve of arguments, should yet be a stupid man in all the practical affairs of life is a matter for some wonder. There is no reason why a man who has attained intense delicacy and skill in any mechanical operation should not retain the same qualities when his energy is applied to some analogous work. Why, for instance, a man who draws admirably should not write well. And yet so it is, and there is no reason to think that nature has deviated from her ordinary procedure when she has given a man real intellectual capacity in regard to several sets of circumstances, and has still left him a fool with regard to other matters of relation quite as simple and comprehensible. There is no easily understood ground for idiosyncrasies. It would be difficult to explain why a man should in aphasia lose one or two words and those only.

Now this affords another class of imbeciles. As we have general imbecility so we have moral imbecility, and, in rare cases, we find simple intellectual imbecility. In this latter class we do not find a perfect moral nature, but there is not the same utter incapacity to appreciate all moral distinctions that we find in those of the second class.

The "Daft Will Speir," of whom so many stories are told in Scotland, seems to have been one of this class. All these anecdotes indicate the possession of much shrewdness, and it is that very shrewdness which makes it so difficult to determine the legal relations of such persons.

One day, Will Spier's master said to him, "Well, Will, have you had a good dinner to-day?" (Will had been grumbling some time before), "Ou, very gude," answered Will, "but gin anybody asks me if I got a dram after't what will I say?" Concerning this idiot, it is said he had a high sense of duty. He was capable of doing little duties, and the charge of the coal stores at the Earl of Eglinton's had been entrusted to him. But even Daft Will was liable to make mistakes, and upon one occasion was reprimanded for

allowing the supplies to run out before further supplies were ordered. This reprimand made him most careful in performing his duties. But his end drew near and the minister came to him. Thinking him really in a good frame of mind, the minister asked him, in the presence of the laird and others, if there was not *one great* thought which was ever to him the highest consolation in this hour of trouble? "Ou ay," gasped the sufferer, "Lord be thankit, a' the bunkers are fu'."

To assert that this individual was incapable of understanding the relations of man to the universe in so far as duty is concerned is to say something that will not be believed. Yet it is impossible to doubt that he was incapable of much improvement by means of education, and the above incident shows how narrow his sense of his duties was. It is curious how much of this shrewdness can exist with the possession of very little wisdom.

Not unfrequently imbeciles are capable of acquiring with much accuracy a large number of facts in one subject or department. Many have been noted for their powers of calculation, and we have ourselves seen an idiot who could spell almost any word backwards. So rapidly was this accomplished that it was found necessary to take down the letters as he uttered them. He spelt long and intricate words in this way with precision and accuracy.

One thing has to be pointed out with reference to the educational improvement of which imbeciles are capable, and that is that almost all the education which can be bestowed does not improve, but tends only to make the imbecile more mischievous and troublesome. Their extra training seems only to teach them how more cunningly to perpetrate their vicious acts. It rather tends to make them more vicious. The reason of this is obvious. The education cannot be carried far enough to establish in the individual any good principles of morals. So, while the intellect has slightly improved, the moral nature is still undeveloped. Only one course of conduct could result from this. It is a question, therefore, whether much education as it is ordinarily understood in institutions for idiots and imbeciles should be resorted to. There has been a somewhat absurd social hunger for education. Those national appetites come in very various forms. In Australia there have been land hungers. People bought land without any reason for so doing. It was as absurd as the tulipomania. So it is we have been hungering for education

without considering whether it is good or bad. We have often been content if we could make men half clever, instead of attempting to make them even a little wise. We have devoted ourselves to the cultivation of the intellect, while we have neglected all moral training. However that may be, and depend upon it, if it is so, we will have to suffer for it in the scourge (of scorpions) which our criminals and lunatics are to this country; still it is true that this extraordinary desire for the education of all has had its influence even upon our large idiot asylums; and possibly the munificence by which these are supported has been to some extent due to annual exhibitions of the results of education upon imbeciles. Old people are amused by toys. If they see a monkey do what a man does they laugh. The feeling which appreciates satire in them is gratified. So is it with idiots' improvement; there is pleasure derived in this way which is tempered by a feeling of somewhat loathing sympathy with the poor children, which is not altogether disagreeble. In this way the question of improvability has been fairly tried, and in a large class with the result that has been above indicated. In that small class of imbeciles who are only intellectually weak, and who are capable of moral improvement, education might be had recourse to with advantage, but certainly without hope of rendering the individual a useful member of society.

It is true that many imbeciles who belong to the other classes are capable of being delivered from certain acts by the certainty of immediate severe punishment, but most of the penalties which the law can put in force against offenders are too remote in point of time to have any influence upon the actions or conduct of the imbecile. It requires some mental power to be able sufficiently to comprehend the relation between a crime and its punishment by law. Owing to this circumstance less reliance ought to be placed on the fact, that rewards and punishments are found to be efficacious in a household, or in an institution where imbeciles are assembled, at least, when any inference would be drawn from it with reference to the responsibility of the imbecile for his or her criminal acts. The constant presence of a nurse or governess who has threatened the punishment is a very different, and more prominent and powerful motive to a weak mind than a statute-book threat made by something of which it knows and sees nothing, except its representative to the common people, a policeman.

In many cases we find a singular power of reproducing musical sounds. We have ourselves seen an idiot girl who could not speak, but who could remember and repeat any music she had once heard. She sung some music-hall tunes in our presence. It seemed strange, but natural. Concerning the various degrees of capacity and education, very little requires to be said. Some imbeciles can read, write, and count, some can even, it is said, attain to one accomplishment. But they never do profit in the same way from their opportunities that their sane neighbours do. This is what was to be expected. We have heard it said that there was an indication of some injustice in the parable of the lord who left his servants money with which they were to trade during his absence. It will be remembered that the man who had received five talents made five, and the man who had two made two. The man who made two from two evidently did better than he who made five from five, and yet the man who had made the five got the one of him who buried his talent, besides his five. So it is with sane men and imbeciles. The powers of acquisition of the latter are limited by the very small amount of capital they start with, while merely a proportionate progress upon the part of the sane man, to that made by the imbecile, would scarcely be any progress at all.

Many imbeciles know the value of money, and are capable of bearing testimony in certain cases, but are usually unable to carry on a connected conversation for any length of time. In most cases they are incapable of any excellent emotion; and if they do become attached, are usually very fickle. They are restless and uneasy in their manners, and somewhat incapable, in most instances, of reasoning with reference to the future from the facts supplied by the experience of the past. The greatest number of imbeciles are found amongst the lower orders of society, just as more maniacs are found amongst the better educated. Imbecility is the disease of the dark ages, mania of those which are enlightened by civilization. There is the most marked difference observable in the wards of different lunatic asylums as to noise and excitement. In those which contain the patients which have been drawn from the great country districts of England, the lunatics are mostly stupid and stolid, while in those which contain patients from great centres of industry, there is usually much noise and excitement.

Besides these characteristics, many of them become thoroughly

vicious. It is wonderful how little mind will do to be wicked with. Many of them are drunken, and most are lazy. Temptations of the most trivial kind have with some of them an omnipotent influence; and motives which would not attract the attention of a sane man, not unfrequently govern their conduct. Any one who knows anything of the ordinary criminal courts of this country must know how many of those imbeciles are constantly being accused of crimes; of theft, assault, rape, arson, murder. And it must have struck any one whose attention has been called to the subject of mental unsoundness, how closely persons belonging to the ordinary criminal class approach to imbeciles in general appearance, in manners, in conduct, and in such manifestations of intelligence as they may have an opportunity of displaying. And yet this is surely no good ground for exempting the latter from punishment, or for subjecting the latter to it, seeing that a reasonable and clear distinction can be drawn between these two classes, as we have seen in another part of this work.

Hoffbauer* has made elaborate and almost useless distinctions between what he terms stupidity (dummheit) and imbecility (blödsinn), and goes still further, and divides the former into three different degrees, and the latter into five. There is some ingenuity displayed in his effort, but much ingenuity in this world is thrown away. Georget† has some interesting remarks upon this subject, which have been quoted by many recent writers. Sometimes in shabby genteel families, a coat, which was once worn by the father, is adapted to the eldest son, and from him it passes to a younger brother. So it often is in books; and some recent writers upon the medical jurisprudence of insanity have been much indebted to their predecessors. This circumstance makes it unnecessary for us to quote from those works. There is, however, a necessity to quote one or two of the cases which have some bearing upon this subject, to enable us to deduce some general principle from them.

The use of such quotations is obvious; there are many minds which precept will not guide, and who will be influenced by example. Medical men will, in following these cases attentively, and considering much of the medical evidence, find many examples which it would be well to avoid. In many cases in which the civil competency, as

* 'Diepsychologie in ihren hauptanwendungen auf die rechtspflege,' ss. 26—46.

† 'Discussion Médico-légale Sur la Folie,' p. 146.

distinguished from criminal responsibility, has to be determined—and we shall consider these cases—in the first instance, the real question, which it is important to decide, is, whether the mental weakness, or the unsoundness of mind, is of such a nature as to render restraint of the individual, as regards his personal liberty, and the disposal of his property, necessary. That this is a question by no means easy of decision will be manifested by the following cases:

Dr. Guy speaks* of a case in which he was called to give evidence. "In this case the patient did not know how many pence there were in sixpence or a shilling, or how many shillings in a sovereign; could not perform the most ordinary operations of arithmetic; was ignorant of the date, the month, and the year; did not know the name of the reigning monarch; could not recognise persons whom he had seen and conversed with only four days previously. His attention was aroused with the utmost difficulty, and could not be fixed to any one subject. His look was vacant, his dress peculiar, his gait awkward, his motions grotesque, his speech slow and hesitating. He used the same words and expressions again and again, repeated imperfectly the tasks and prayers of his childhood, and imitated the contortions of persons like himself, subject to fits. Such a case could present no difficulty either to medical witnesses or to the jury."

This, however, can be said in very few cases, and the difference of the opinion of medical witnesses, and the incompetency of a jury to grapple with such cases have become familiar facts.

"Mr. Edward Davis was born in low circumstances, and obtained an extremely imperfect education. He was noticed at school as being very shy of his companions, but was not considered stupid. He commenced business as a tea-dealer, and by indefatigable industry and attention to his business acquired property, but his early habits continued, and he was so habitually anxious and nervous that the night before the great tea sales at the India House he could not sleep. He was subject to dyspepsia, and even inclined to hypochondriasis. Finding himself, also, deficient in education, he endeavoured to acquire information by reading what he took to be the best authors, as is natural with such persons. Was very vain of showing off his late acquisitions, particularly in the way of spouting. It appears that his mother, even at his advanced period of life

* 'Principles of Forensic Medicine,' 2nd edit., p. 165.

(twenty-seven), exercised a complete sway over him. She would not allow him to carry any money in his pocket, nor to spend the most trifling sum without her advice and permission. He dared not go to the play or leave the house for a few hours without asking her consent, and indeed she turned him out of his shop if he displeased her. Foreseeing that if he married she would be displaced from the management of his house and concerns, she prevented him from seeing young females. He made many attempts to emancipate himself from this control by offering her large sums of money if she would leave him, but they were all rejected. His health became more and more affected, and Mr. Lawrence, to whom he applied for advice, found his look wild and manner hurried. He used much gesticulation, and expressed a strong antipathy to his mother, and several relations whom he supposed were combining against him. Mr. Lawrence considered him of unsound mind, but that the antipathy to the mother was the chief delusion. The disease would be removed if he could be reconciled to her.

"About this time his mother placed him under the care of Dr. Burrows, against whom it appears he entertained a strong aversion. He now consulted Dr. Latham on the subject of his supposed insanity. In the conversation with that physician he used much gesticulation and theatrical gestures; was apprehensive that any one should hear the narrative; spoke of his wealth, and occasionally quoted Byron and Shakespeare. He repeatedly insisted on Dr. Latham's opinion whether he was insane, and threatened vengeance if he did so think. Dr. Latham was inclined from this interview to doubt his sanity.

"Mr. Davis shortly after left his house and lodged at an inn, where his appearance was wild, and he awoke the servant in the night with the idea that there were thieves in the house. He was, however, soon reassured and went to sleep.

"He was soon after confined in a private madhouse, and this confinement led to an application for his release. Several physicians examined him (Sir George Tuthill, Dr. Monro, Dr. Macmichael, and Dr. Sutherland), and the majority being of opinion that he was of unsound mind, the Chancellor granted a commission.

"The testimony adduced was principally what has been already stated. The state of his affections was much dwelt on as a proof; so, also, his having purchased some property at an extravagant rate.

He expressed much indignation at his confinement, but was calm and correct in his conversation. It turned out on the trial before the commission that at the very time when he was about being confined he gave direction as to his business, and was indeed consulted by the very persons engaged in the application relative to the conduct of that business. The result of the commission was that Mr. Davis was restored to his liberty and property."*

The case of Miss Bagster may be quoted to show what kind of evidence is required and received on commissions of lunacy. We will reserve comment until we treat of the legal relations of imbecility.

Miss Bagster was proved by the evidence to be a frivolous and weak-minded girl whose education had been much neglected. She was a lady of fortune, and she ran away with and was married to a Mr. Newton. An application was made by her family to dissolve the marriage on the ground that she was of unsound mind. Amongst other facts urged before the commission as proof of the allegation, there were mentioned that she was occasionally violent and self-willed, that she had been passionate as a child, and that even in maturer years she had little or no self-control. That she was ignorant of arithmetic, and therefore incapable of taking care of her property. That she had some erotic tendencies, which were evinced by her want of womanly delicacy, and by her having engaged herself with a view to marriage to several individuals. On her examination before the commissioners her answers were intelligent, and her conduct in no way different from that of ordinary individuals. Seven medical witnesses were summoned to support the commission, and each of them deposed that she was of unsound mind. The commissioners, however, had recourse to Drs. Morrison and Haslam, who visited her, and who came to the conclusion that she was neither imbecile nor idiotic, and that her inability to manage her affairs arose from ignorance. She was aware of her deficiencies, and deplored her ignorance of arithmetic, and explained it on the ground that her grandfather had been too ready to send excuses for idleness when she was at school. Her conversation generally impressed Drs. Haslam and Morrison with a belief in her sanity. The jury, by a majority of twenty to two, returned a verdict that

* This case is taken from Beck's 'Medical Jurisprudence,' 7th edit., p. 457, Dr. Beck having taken it from the 'Quarterly Review,' vol. 42, p. 345.

Miss Bagster had been of unsound mind since November, 1830, and the marriage was consequently dissolved.*

The case of the Countess of Portsmouth *v.* the Earl of Portsmouth,† which was a suit for the dissolution of marriage on the ground that the earl was of weak and afterwards of unsound mind, is instructive. It was decided in this case that a marriage *de facto* solemnized under circumstances of clandestinity, inferring fraud and circumvention between a person of weak mind and the daughter of a trustee or solicitor (who had great influence over him, and by whom he was clearly considered and treated as of unsound mind), was null and void.

Many persons testified to their belief that Lord Portsmouth was of "sound mind, and capable of conducting the ordinary transactions of life;" but they admitted that his lordship was a "weak man." At school he was deficient, and not like other boys; he was cowardly, yet he was not incapable of instruction, and had an excellent memory. He acquired some languages and displayed considerable proficiency in arithmetic. He certainly was not regarded as an idiot. When he came of age he joined his father in suffering a recovery and in making a new settlement of the family estates. In 1799 he married Miss Grace Norton, and by a settlement then made, his property was placed in the hands of trustees. In 1802 he was deemed capable of giving evidence in a court of justice, but it was a matter of surprise, and some conversation, that he made so creditable an appearance upon that occasion, which proves that public opinion had inclined to the belief that he was of weak mind. It was proved that he was able to conduct himself with much propriety under restraint and checks, such as are imposed by the presence of other individuals; and that he had personal feeling of shame or self-respect which even very weak-minded persons are not entirely without. Further, it was proved that his servants were his playfellows in town and country; that he played all sorts of tricks with them; that he was fond of driving a team with which he carted dung, timber, and hay; that he was cruel to the horses; that he was fond of bell-ringing with a view to earning the very paltry remuneration; that he took delight in slaughtering cattle. He had delusions respecting lancets, and tapes, and basins in women's

* See 'London Medical Gazette,' vol. x, pp. 519–553. 'London Atlas Newspaper,' July 8 and 15, 1832.

† 1 'Haggard's Eccl. Rep.,' 355.

pockets. He was proved, even when he had attained the age of forty, to have flogged an old bailiff who was twenty years older than himself. One feature in his character which was dwelt upon was his timidity and his liability to be controlled. It is a symptom of all weak minds. Only the great man is brave; the weak are always cruel and cowardly. It was owing to this circumstance that Mr. Hanson, his trustee and confidential solicitor to the family, acquired ascendancy over him. The earl married one of Mr. Hanson's daughters.

Sir John Nicholl, in giving a very able judgment, observed, "The law in the case admits of no controversy, and none has been attempted to be raised upon it. When a fact of marriage has been regularly solemnised the presumption is in its favour; but then it must be solemnised between parties competent to contract, capable of entering into that most important engagement, the very essence of which is consent; and without soundness of mind there can be no legal consent—none binding in law; insanity vitiates all acts. That considerable weakness of mind circumvented by proportionate fraud will vitiate the fact of marriage, whether the fraud is practised on his ward by a party who stands in the relation of guardian, as in the case of Harford *v.* Morris,* which was decided principally upon the ground of fraud; or whether it is effected by a trustee procuring the solemnisation of the marriage of his own daughter with a person of very weak mind, over whom he has acquired a great ascendancy. A person incapable from weakness of detecting the fraud, and of resisting the ascendancy practised in obtaining his consent to the contract can hardly be considered as binding himself in point of law by such an act. At all events, the circumstances preceding and attending the marriage itself may materially tend to show the contracting party was of sound mind, and was so considered and treated by the parties engaged in fraudulently effecting the marriage. In respect of Lord Portsmouth's unsoundness of mind, the case set up is of a mixed nature, not absolute idiocy, but weakness of understanding; not continued insanity, but delusions and irrationality on particular subjects. Absolute idiocy or constant insanity would have carried with them their own security and protection; for in either case the forms preceding and the ceremony itself would not have been gone through without exposure and detection. But here a mixture of both, by no means uncommon, is

* 1 'Haggard's Consistory Reports,' p. 61.

set up—considerable natural weakness, growing, at length, from being left to itself and uncontrolled, into practices so irrational and unnatural as in some instances to be bordering upon idiocy, and in others to be attended by actual delusion—a perversion of mind, a deranged imagination, a fancy and belief in the existence of things which no rational being, no person possessed of the powers of reason and judgment, could possibly believe to exist."

And in concluding his remarks he said "A marriage so had wants the essential ingredient to render the contract valid—the consent of a free and rational agent. The marriage itself and the circumstances immediately connected with it do not tend to establish restored sanity; it was neither a 'rational act,' nor was it 'rationally done;' the whole 'sounds to folly,' and negatives sanity of mind. The Hansons, in the mode of planning and conducting the transaction, show that they treated and considered Lord Portsmouth as a person of unsound mind, and Lord Portsmouth, in submitting, acquiescing, and not resisting, confirms his own incompetency. Even if no actual unsoundness of mind, strictly so called—if no insane derangement had existed—if only weakness of mind, and all admit he was weak, yet, considering the passiveness and timidity of his character, on the one hand, the influence and relation of Hanson as his trustee, on the other, and the clandestinity and other marks of fraud which accompanied the whole transaction, I am by no means prepared to say that without actual derangement in the strict sense the marriage would not be invalid; but in my judgment Lord Portsmouth was of unsound mind, as well as circumvented by fraud." This case was decided in the year 1828. But a much more recent case will show in how many respects the condition of the law is unsatisfactory with regard to the relation of such persons, as are of unsound mind by reason of imbecility, to the state.

It has been a subject of regret to some legal writers that the term "unsoundness of mind" should have become wider in its significance than it formerly was; a regret which is somewhat stupidly conservative. How can law stand against fact? It has been tried more than once, and what has been the result? That shallow thing law has been torn in fragments by that tremendous reality—outraged facts. Such law is a lie; and although it may survive for a little while, it cannot live. Even in 'Shelford' the following sentence is to be found: "It is to be lamented that the original meaning of the term, 'unsound

mind,' should have been departed from, and that so much latitude and uncertainty should have been given to it as are implied by the words of Lord Eldon.* For if unsound mind does not mean a deprivation of reason, but a degree of weakness; and the crown can issue commissions to try whether a party be of sufficient understanding to manage himself and his affairs, this is such a vague and uncertain ground of inquiry as will open a door to invade the liberty of the subject, and the rights of property." †

It is somewhat difficult to share this regret. The object of all such definitions seems to be to facilitate the administration of justice. They are, as it were, the machinery of the law. And it would require to be shown that the introduction of this term, "unsoundness of mind," and the admission of the mental state to which it corresponds as a reason for depriving an individual of his personal liberty, and the management of his property, has been detrimental to the due administration of justice before they are condemned. Mr. Shelford's objection that if unsound mind does not mean deprivation of reason, but a degree of weakness, seems to be due to a want of thorough appreciation of the meaning of the terms. Some degree of weakness seems to us to amount to what would fairly be designated a deprivation of reason. And as in law a deprivation of reason is only an inference from conduct of a certain character, so a certain degree of weakness is as easy of inference from the same facts. But it seems most difficult to get lawyers, who worship a method which has arisen from an obsolete system of jurisprudence, modified by the requirements of progressing epochs, to understand that the true method is the method of nature, and that the term introduced by Lord Eldon allows of a nearer approach to the actual facts of mental aberration than could be made without some such distinction. It seems to be a strife about words. Why should not law afford its protection to a man against his own diseased weakness? We have in another place compared mental disease to duress, and surely, as when the mental weakness is of such a character as utterly to deprive the individual of all power over the management of his affairs, where it can be distinguished from simple stupidity, as it always can, if the rules that have been laid down are closely attended to, in such a case the law does well to interfere and

* In re the Earl of Portsmouth, 22nd April, 1815.

† Shelford's 'Law of Lunatics and Idiots,' 2nd edit., p. 5.

protect; as in a case of duress it would relieve from a contract which had been entered into under force or fear. Lord Eldon has well said, "Provided it is made out that the party is unable to act with any proper or provident management, liable to be robbed by any one under imbecility of mind, not strictly insanity, but as to the mischief calling for as much protection as actual insanity, the court has felt itself authorised (though certainly many difficult and delicate cases with regard to the liberty of the subject occur upon that) to issue the commission."*

Still, as we have seen, a mere finding by the jury that the subject of the inquiry is of weak intellect, or that he is unable to manage his affairs, is not sufficient to warrant the issue of the commission. But that the term imbecility, as it is used by Lord Eldon in the last quoted case, and as it is explained and used in this work, falls under, and explains the meaning of the phrase, unsoundness of mind, we are inclined to believe. "The term unsoundness of mind," according to Mr. Amos, "in the legal sense, seems to involve the idea of a morbid condition of intellect, or loss of reason, coupled with an incompetency of the person to manage his own affairs;" and yet he says, in the same article, "Soundness of mind is a legal term, the definition of which has varied, and cannot, even in the present day, be stated with anything like scientific precision."† With regard to what the law regards as perfect capacity, the averment to be contained in a common *condidit* will indicate a standard. It says that the testator was of "sound mind, memory and understanding, talked and discoursed rationally and sensibly, and was fully capable of any rational act requiring thought, judgment, and reflection." Sir John Nichol has given an admirable description of the characteristic symptoms of imbecility, in the case of Ingram *v.* Wyatt,‡ which is worthy of attention. He says:

"When imbecility is original, or, as medical authorities say, conate, the memory is often perfect, especially of trifling and simple circumstances, though the other mental powers remain infantine, or, as the same authorities suppose and express it, 'the brain has more developed itself.' In such an individual the understanding has made little progress with years—it has not matured and ripened in the

* Ridgeway *v.* Darwin, 8 Ves. junior, p. 65.

† 'London Medical Gazette,' vol. viii, pp. 419–421.

‡ 1 'Haggard's Eccl. Rep.,' 384.

usual manner; yet even in such individuals, unless the imbecility be extreme, some improvement will have taken place, some progress in knowledge beyond mere infancy will have been made, by the help of memory, imitation, and habit. Such an individual will acquire many ideas, will recollect facts and circumstances, and places, and hackniced quotations from books; will conduct himself in an orderly manner; will make a few rational remarks on familiar and trite subjects; may retain self-dominion, and spend his own little income in providing for his wants as a boy spends his pocket money, and yet may labour under great infirmity of mind, and be very liable to fraud and imposition. The principal marked features of imbecility are the same which belong to childhood, of course varying in degree in different individuals—frivolous pursuits, fondness for and stress upon trifles, inertness of mind, paucity of ideas, shyness, timidity, submission to control, acquieseence under influence, and the like. Hence these infantine qualities have acquired for this species of deficiency of understanding the name of 'childishness.' The effect is, that where imbecility exists at all, and in proportion to its degree, it becomes necessary, especially in a case exposed to other adverse presumptions, to ascertain its extent with some accuracy; to see how far the individual was liable to be controlled by influence, to submit to ascendancy, to acquiesce from inertness and confidence in those acts upon the validity of which the court has to decide."*

The general principle that proof of imbecility is only to be satisfactorily obtained, in many cases, from the careful investigation of the whole character and conduct of an individual, frequently extending over a long course of years, has already been illustrated, but the celebrated case of Mr. W. F. Windham will further illustrate this principle. There are also other reasons why this case should be somewhat minutely examined. As the inquiry lasted thirty-four days, as 140 witnesses were examined, and as the evidence which was received extended over the whole of the defendant's life, such an examination is incompatible with the limits of a work of this description.

This was a petition for an inquiry into the state of mind of William Frederick Windham, of Felbrigg Hall, Norfolk, instituted

* The analysis of the evidence which was given to prove the imbecility of John Clopton, the deceased in this cause, is worthy of the reader's best attention.

by his uncle, Major General Charles Ashe Windham, and fourteen other relatives. The order was made on the 23rd November, 1861, and the inquiry commenced on the 16th December of the same year. The petitioners alleged that Mr. Windham laboured under congenital deficiency of intellect; and it was upon the other hand asserted that Mr. Windham's mental condition, if below the normal standard, was due to defective education, and was not the result of congenital impairment of intellect. It was proved that he had been sent to Eton, but that he had profited very little by the means of education which were placed in his power. He was wholly unlike other boys, and when he came of age, in 1861, his conduct was such as to lead to a belief, in the minds of those who were acquainted with his position, that he was insane. It was further proved that he was utterly deficient in business capacity; that he was extravagant in purchasing articles, which he did not require, at exorbitant prices and in unnecessary quantities; that in consequence of such acts he incurred enormous debts, without having any reasonable prospect of being able to meet the demands when they came due; that he was guilty of gross indecency of language and conduct in public places, and that even the presence of ladies was not a restraint; that his appetite was voracious; that he associated constantly with people of the most indifferent character, and that three weeks after he came of age he married Miss Agnes Willoughby, a woman of disreputable character and life; that he married her, knowing that up to the night previous to her marriage she had lived with one of his friends as his mistress; that having married her, he infected her with the venereal disease, and subsequently presented her with jewellery of the value of from £12,000 to £14,000, and settled £800 a year on her for life; that his income at the time he did this was not more than £1500 per annum.

The evidence further went to show that, although his wife subsequent to her marriage cohabited with another man, Mr. Windham condoned this act by residing with her even after her adultery; that he was in the habit of acting as a railway guard, was careless as to personal cleanliness, and on occasion displayed an utter want of feeling. These are the facts which were chiefly relied upon by the petitioners. The ninety witnesses who were examined on the other side gave the impression that all these eccentricities were harmless and rather amusing jokes. Their mental attitude seemed

to be that of a broad grin. There was much playfulness in all these actions they thought.

But the medical evidence in the Windham case was the most peculiar feature. Dr. Forbes Winslow and Dr. Mayo were appointed examiners by the Lords Justices, before whom the petition came, and Dr. Bright was associated with them as assessor. The examination of these medical gentlemen seems to have been conducted with the greatest care. They came to the conclusion that Mr. Windham, the respondent, was in a state of mental imbecility; that he was a person of unsound mind, incapable of managing his affairs. They did not regard the amount of mental unsoundness under which he laboured as incompatible with the acquisition of a certain amount of classical knowledge; they looked upon it as consistent with a capacity to write letters, to settle small accounts, and to make purchases. Still, they regarded him as a person of weak and childish intellect, as dead to moral obligations. Dr. Southey, who was also appointed by the Lords Justices to examine the respondent, came to the conclusion that he was labouring under imbecility, and was of unsound mind, and did not hesitate to express his opinion that "he was not capable of managing himself or his affairs."

But there was medical evidence on the other side. Dr. Tuke regarded Mr. Windham as sane, and he came to this conclusion after considering—1st, the powers of observation of the alleged imbecile; 2nd, the manner in which he had conducted the arrangements for his defence; and 3rd, from his delicacy in conversation. He did not regard it as at all inconsistent with the sanity of Mr. Windham that he should get into debt to the amount of £25,000 or £30,000, or that he should give £14,000 worth of jewellery to his wife. Dr. Sutherland, Dr. Hood, of Bethlehem Hospital, Dr. Seymour, Dr. Conolly, and Mr. Handcock had examined Mr. Windham, and regarded him as a person of sound mind and as capable of managing his affairs.

Mr. Warren, one of the Masters in Lunacy, in addressing the jury said, "The question to be decided was not whether Mr. Windham was absolutely insane, but whether there was such imbecility of mind, not amounting to insanity, as to render him liable to be robbed by any one. The broad question was whether he was of sufficiently sound mind to be entrusted with the management of himself and his affairs. Mere weakness of character, mere liability to impulse, good

or bad, mere imprudence, recklessness, and eccentricity, to which might be added immorality, did not constitute unsoundness of mind, unless, in looking fairly at the whole of the evidence, there was good reason to refer them to a morbid condition of intellect. They might furnish evidence of unsoundness, but they did not constitute it."

Mr. Windham was subjected to a lengthened examination before the jury, and the result of these proceedings was that on the 28th of January, 1862, the jury, by a majority of fifteen to eight, returned a verdict that Mr. W. F. Windham was of sound mind, and capable of taking care of himself and his affairs.

The argument that because Mr. Windham laboured under no illusions or delusions, that therefore he was not insane in the ordinary sense of the word, is beside the mark, as Dr. Taylor has pointed out,* as their "absence proved nothing for or against the existence of imbecility or weakness of mind." The test of imbecility is undoubtedly conduct, and that conduct which has become fixed and permanent, namely, disposition. And the objection raised by a writer in the 'Solicitors' Journal,' that unless the system of lunacy inquiry be materially changed every commission may amplify itself into a biographical inquisition,† has evidently been made in entire ignorance of the subject. The only reasonable method of coming to a right conclusion in any case of imbecility is from a careful consideration of all the facts of conduct during a long series of years. That this method sometimes produces unsatisfactory results may be due either to the inherent defects of medical testimony or to the liability which even British juries have of coming to erroneous conclusions.

Before concluding this part of our subject it may be well to state that commissions may be superseded, but only upon evidence as strongly indicative of sanity as the evidence on which the commission issued was indicative of insanity.‡

Responsibility.—Idiots, as we have seen, are held irresponsible; but, as we have also seen, imbecility and weakness of mind may exist in different degrees between the limits of absolute idiocy on the one hand and of perfect capacity on the other. In cases in which some

* Taylor's 'Medical Jurisprudence,' p. 1081.

† 'Solicitors' Journal and Reporter,' vol. vi, p. 227, February, 1862.

‡ Re Dyce Sombre, a lunatic, 'Law Times,' 1844, vol. iii, p. 485.

of the minor degrees of imbecility exist there arises much difficulty in the decision of the question as to whether the individuals are to be regarded as criminally responsible for their acts. This is necessarily so, for, as Sir John Nicholl has remarked, "Imbecility is a matter of degree, and the degree of weakness differs in the same individual under different circumstances, and according to the different habits existing and the different situations he is placed in at one time or another of his life."* As the weakness varies, so does the strength to resist temptation. And in many cases it would be utterly contrary to the real spirit of the law to punish imbeciles for their criminal acts. This is scarcely the proper place for considering the relation which criminal acts bear towards individuals who are mentally incapable, either by reason of mental weakness or by reason of actual delusion, of appreciating the real inducements to any given act. It is evident that the relations of a man to the state with regard to his criminal acts, and his responsibility or irresponsibility, must be very much the same whether the irresponsibility arises from an inability to appreciate motives from absolute weakness of intellect, from the false motives of delusions, from the absolute incoherence of mania, or from dementia. It does not matter in what way the irresponsibility arises. All that the law can or ought to take cognisance of in such cases is the fact that the individual, from some cause or other, is unable to appreciate the real reasons which ought to make a man refrain from the commission of crime. It is true that there are always excellent reasons to a wise man for refraining from crime. The man who cannot appreciate these is not mad, he is only stupid, and stupidity is compatible with criminality, if it is not the very stuff that criminality is made of. But the stupidity must be due to unsoundness of mind, and it must be of such a nature and of such a degree as to render the individual utterly incapable of being influenced by the motives which the criminal law provides. If he was in such a condition that, at the time of the commission of the crime, and at the date when punishment would be inflicted, he would not be influenced by any certainty of punishment; if ordinary motives had no influence upon his conduct; if, instead of being influenced by a supposed hope of escaping detection, as the stupid man is; if, instead of only miscalculating probabilities, he has not calculated

* Portsmouth *v.* Portsmouth. 1 Hagg. Ecc. Rep., 355.

probabilities at all; and if this want of the common forethought and prudence of mankind is due to mental disease, or that congenital defect which we have described, then it would be as absurd to punish such an individual as it would be to punish a stone because it cut a man's head open. In every sense, and for every reason, it would be the height of injustice and inexpediency to punish such an individual. But the question whether this inability to be influenced by ordinary motives arises from imbecility, or mania, or dementia, is one of fact. The law wishes to be assured of the fact of irresponsibility, and it is of very little importance in the result whether it arose from one or other of these diseases. It is from this circumstance that lawyers have made the absurd mistake of regarding it as of little or no consequence as to whether there was any real difference between these diseases, that they have come to regard all forms of mental disease as the same, and have set up one kind as a standard, and attempted to judge of all other cases of mental disease by referring them to this crude criterion. That it is of the utmost importance to distinguish clearly between each of these forms of insanity or mental unsoundness is as clear as that, when irresponsibility has been made out, it matters little to law by means of what series of circumstances, as constituting what has been called conduct, this irresponsibility has been proved. The only question which it is of importance to decide is that which refers to the exact degree of weakness which will amount to irresponsibility. A rule for the decision of this point has been given. Wherever, as we have said before, the individual is *hors de combat* with regard to actual choice—and this may arise either from utter inability to understand the nature of the question to be decided; from a driving delusion, *e.g.* the command of God—or any other product of mental disease; he shall be regarded as irresponsible for any act committed while he was thus, as it were, inanimate with regard to it; for is not that mystery of choice or selection the very sign of life?

Of course it is not always easy to decide when this is the case, but neither is it easy to say, in any case where fraud has been used to obtain a conveyance from some one who is in a confidential relation to the party using the deceit, or who, owing to youth or inexperience, has been the more easily imposed upon, whether the fraud is of such a nature as to void the deed. But the difficulty in any case does not prove the impracticability of the rule. And that such

must be the rule seems to us certain if disputes are to be avoided and scandal cases of medical testimony are not to arise.

With a view to the determination of this question with regard to any case which may arise, we have thought it necessary to enter somewhat minutely into a description of imbecility, and to quote cases which show how it has been understood and misunderstood in courts of law. But the question of the legal relation of imbeciles to the criminal law of this country will be made still clearer by the cases which will be quoted when we come to consider the questions which arise in regard to general and partial moral mania, which is very often confounded with general and partial moral imbecility.

One or two cases, however, may be worthy of attention. "A few years ago," says Dr. Guy, in the work from which we have already quoted, "a commission was granted in the case of a young gentleman aged 20, who was the slave of a childish fancy for windmills, with an aversion equally as strong to watermills. Having been placed under control in a place where there were no windmills, he cut the calves of a child's legs through to the bone, and stated that he should have taken away its life, that he might be tried for his act and removed from a place where there were no windmills. He had always been violent when thwarted in his fancy, had threatened his keeper and members of his family, and had more than once made preparations for committing murder. In this instance childishness of fancy, insufficiency of motive, absurdity of act, and ignorance of legal consequences, were strikingly combined."* And in such a case it would seem to be wrong to hold the individual responsible for any act which was directly connected with his insane craving, if it could be shown that that craving was so strong as to be unrestrainable, even under the influence of the strongest motives.

The case of Cuthbert Rodham Carr is one of considerable interest. Cuthbert Carr was tried at the Winter Assize at Durham, in the year 1866, for the murder of a female child, six years of age. When he was taken into custody, or rather gave himself up to the police, he made the following voluntary statement, after having been cautioned:

"On Friday, the 13th April, that is, just the time about half-past two in the afternoon, I saw the little girl coming up the road, the

* Guy's 'Principles of Forensic Medicine,' 2nd edit., p. 164.

same road as the father and mother came after. I took hold of her first and carried her away; she was over-frightened to cry—never spoke a word. I took her into the stables, and up yon ladder like into the loft, at the far end like. She then said, 'Mother! mother!' I just choked her then; before she was choked I laid her down; then, you can understand. She was choked after that. I laid her underneath the hay to keep her warm. I can tell you the time when I think on. It was half-past six o'clock. I got one piece of string about a yard long. I split the twine in two; did not cut it, you know, I just split it with a pull. I tied the twine on her neck first. It had a loop on it. If I can mind right, she was dead long before that. I also tied her wrists together. That was at half-past six, you know. You know there is a door in yon stable; I opened it, and just looked out at the door, and I saw two women coming down, this Catherine Foster for one, the other one lives beside the Felling Station. I locked the door then—there is a lock in it, you know—and came outside. Then I went into the house two or three minutes like, and I saw Catherine Foster going up the road again. I could not see any one else but her. Then I went up the road a bit myself, about thirty yards or so, to yon place, where the gatepost is. I went to look the distance where the gatepost had to be put in. It was a quarter to seven then. I stopped there about five minutes, then came back again, came down again; I saw Catherine Foster coming down a second time. They were just saying, they did not speak to me. I then went into the house for a bit. The stable door was locked at ten minutes to eight o'clock, my sister locked it with a key. About a quarter past eight I went and opened it again. The key was on the chimney—it always lies there. I went upstairs into the loft after I had opened it and went to the corner where she was lying in under the hay. I carried her outside on to the road. You know I was going to take her up the other way first; then there was some people came that way and passed us. I had her with me then. They went close past me, and I put her on the other side of the wall till they got passed—close as you are to me. She was lying about three feet from some of the people as they went past on the other side of the wall. I was not a bit frightened, you know. I then took her on to the road, and picked the hay off her hair. The hair was all wet with the water coming out of her mouth. The hay was all clagging

on to it. I just carried her away to yon place. I had to wait at it. There were some folk going down the road, one after the other. I just let her drop over the wall out of our field, at the corner on to the footpath against the wall. I was just going over myself to take her into the quarry. There was some one came down. They were very noisy, but they did not come that way. They went into the Split Crow Lane, by the back of our house. I then went into the house for about five minutes. I came out again to take her into the quarry; I went round by the Split Crow Lane; I met the father and mother about ten yards below the gate—they were scolding one another very hard. I walked past them both. I then went up Williamson's Road, to get to the other place like. I heard them there scolding theirselves all the while. I waited a bit, may be five minutes. They stopped there five minutes very quiet; when they were up the other road beside our meadow I walked about twenty yards higher up the road. I was not as far up as where the bairn was lying. I had not got up to her then. The father and mother went up the road again. I thought they were going to come down that road, so I had to stop a bit. I waited until they got up the road a bit. They stopped talking when they got away. There was other two came down; they were speaking very low. They were walking sharp. I thought I could not get up to the bairn before they got down. I then went home the same road as I had come. I went into the house and went to bed, might be an hour after. I never had a knife. I tied her hands together just because the twine was there. It was our garden line. I burnt it when you were there, at a quarter past six next morning, when you were down that road. I got up at four to see what was doing. I saw Kemp, the policeman, there. There was two men there sitting on the wall, Bob Bell and Dennis. They had only half their clothes on. I knew the bairn was taken away. I saw the man and woman come down. I know they could not pass it. I burnt the garden line, for fear it might be seen. I think I have hardly anything else to say, but just I did not know who she was at the first. I know her other sisters, but I did not know her. There was a lot of blood came, and I burned the hay that it came on to. I choked her until she was insensible. Her heart was beating. She was breathing by gasps, and died about ten minutes after that. I never had a knife."

On the 28th of June, after having been duly cautioned, he further

said, "I got the bad disorder at Berry Edge, that was what set us on like. I was spoiled entirely. I thought the other way was the only way of getting clear. I imagined that at the time. I am better now. There is a difference between the old and the young, do you see?—you can understand it. I intended to kill her—that was the only way to keep it quiet. The bairn did not know me, but she knew the place like. That is all I have to say; but mind, I got better with that. A Staffordshire man told me that, but I do not wish to name his name."

Only too many circumstances corroborated this horrible story in every particular. The story in itself was indicative of considerable shrewdness, and all his conduct while he was awaiting his trial was a proof of the possession of considerable intellectual power.* His personal appearance, however, was that of a typical imbecile, and some of his acts were so curious as to create a doubt as to his sanity.

Some of the answers he gave to the medical men who examined him indicate the reasons of the report which was drawn up. In answer to questions he said—

"I killed her because I thought if I didn't it might lead to bad consequences. I know what will out—'murder will out.' (He laughed.) If it hadn't come out for fourteen years they couldn't have touched me. Anybody that isn't found out is clear of murder in fourteen years. If you took that umbrella and didn't pay for it it would be yours in six years. That is the law. If it had come out before that I might have been out of the country. I have killed animals; vermin must be killed. It would be wrong to kill human beings. I never fight; I am very patient. I learned arithmetic; I can count pretty fair. Nine times nine are eighty-one. I was always considered quick at figures. I made this confession because I thought it would be best to tell all about it and get it off my mind, you know, and stand the consequences. I'm not afraid."

With regard to the crime itself, in the same examination he said, "I carried her up into the loft; I had my arm under her body. She was too frightened to cry. This is correct. She was too frightened to cry, I tell you, and, besides, I stapped my

* Before the commission of the crime he had been engaged in compiling for his own amusement a dictionary of Anglo-Saxon words.

hand on her mouth. Yes, I carried her up a ladder with my right arm under her body, and my left hand on her mouth. Yes, I did it. It is possible, for I did it. I never carried a child before, but I have carried other things. She was pressed against my breast. She clung to me; I had no pity for her, at least not at the time. If she had cried out I would not have spared her, I would have done it all the same. So I would if she had begged for mercy. She did not speak at all except when I was choking her. She cried 'Mother! mother!' It did not touch my heart a bit. I was determined to get quit of the disease because I couldn't bear it any longer. Doctors are no good. They do their best to protract disease, and when they can't protract it any longer they kill their patients; besides, if I had gone to a doctor it would have become known. They are dishonest, doctors. They poisoned the wells in the cholera time. It was to cure myself and keep it quiet I did this deed. It couldn't have come out in my case. I destroyed the proofs—the hay and the twine. I wasn't afraid of being found out. I was suspected. I laughed when they told me I was suspected; of course, I denied it then. The lassie was one of the proofs, that was why I destroyed her. She would have told on me. She didn't know me, but she knew the place, or she might have kenned me again. I took her into the hayloft because there were men working in the quarry. I choked her to make her insensible, and keep her from crying. I felt no sorrow. She wasn't dead, but gasping, when I had connection with her. I had the ordinary pleasure that a man has when having connection with a woman. After that I choked her again; I did it to kill her. She was still gasping; I had no pity (smiling). She was ten minutes in dying. I sat by and watched her till she was dead. Then I happed her up with the hay; it was to keep her warm. I did that because I was going to take away the body afterwards and lay it down somewhere, and I thought it would mislead them as to the time it was done if it was warm."

Enough has been quoted to show upon what grounds the following report was given:

"I have to report that I have had two prolonged interviews with Cuthbert Rodham Carr, and I am of opinion—

"1st. That he labours under mental weakness or defect, which displays itself in stolid indifference as to his future destiny, callous-

ness of feeling, unreasonable obstinacy, and outbursts of violence upon real or imaginary occasions.

"2nd. That this weakness or defect was probably congenital, and became more prominently developed as growth proceeded, and that it would be exaggerated by excitement, exhaustion, loss of sleep, intemperance, or great physical suffering.

"3rd. That he is otherwise of fully average intelligence, apprehending everything that is said to him with clearness and precision, and replying with sense and aptitude.

"4th. That he expresses himself with accuracy and facility, and deports himself with patience and placidity when under examination.

"5th. That his powers of calculation and of memory are unusually acute, and that his acquirements are respectable for his position in life.

"6th. That he is perfectly capable of distinguishing between right and wrong, and, indeed, does this with nice discrimination.

"7th. That he is perfectly capable of foreseeing the consequences of any act which he may commit, and of regulating his conduct, under ordinary circumstances, with rational forethought.

"8th. That he believes in the great truths of religion, but is confused as to the doctrine of rewards and punishments.

"9th. That he labours under no delusions or hallucinations recognisable as such.

"10th. That he exhibits no signs of labouring, ordinarily, under overpowering passions or morbid propensities.

"11th. That his general appearance and manners are such as are usually associated with partial mental defect or eccentricity."

(Signed) "J. Crichton Browne."*

Yet Cuthbert Carr was held to be irresponsible. Certainly not upon any well-understood legal definitions of insanity. Indeed, almost at the same time that Cuthbert Carr was held incapable of pleading at Durham, Henry Gabbites was tried for murder at Leeds, and Mr. Justice Lush said, with reference to a test for the irresponsibility of insane persons, "In all cases every man was presumed to be sane until the contrary was proved, and that to establish a defence on the ground of insanity it must be clearly proved that at the time of committing the act the party accused was labouring under such

* 'Newcastle Chronicle,' 26 Dec., 1866.

defect of reason or disease of mind as not to know the nature or quality of the act he was committing, or that, if he did know that, he did not know right from wrong." *

It was certainly not upon the principles laid down by Mr. Justice Lush that Cuthbert Carr escaped the punishment of his atrocious act. And we would be inclined to point to it as a case in which, through a want of appreciation of the true principles which ought to govern the admission of the plea of insanity or imbecility, justice has not been done. It seems to us impossible to distinguish in any way between the mental condition of Cuthbert Carr and the man who in the same year was found guilty of a similar offence at Alton, and who was sentenced to death and executed.

In many respects the crimes committed by these two men resembled each other. The Alton murderer, who was a clerk in a solicitor's office, upon seeing some children playing by a roadside one fine afternoon, persuaded one of them, a girl of eight or nine years of age, to go with him into an adjoining hop garden, and got rid of the other children by distributing some halfpence amongst them. Shortly after that time he was met returning to his office, where he made an entry in his diary to the following effect:—"Killed a little girl; it was fine and hot."

The child had meanwhile been missed, and her parents became alarmed and a search was instituted. It was ascertained that she had been last seen on her way to the hop field, and in that field the dismembered fragments of her body were found scattered here and there. Some parts of the body could not be found at all. The vagina was missing. These are the main facts of this horrible crime, and it is almost impossible, it seems to us, to distinguish in any way between these two criminal acts, except in so far as there seems to have been a miscarriage of justice in the former, while, as the law at present stands, justice seems to have been done in the latter. With the question as to whether the Alton murderer should have been put to death we have, in this place, nothing to do. But that he was not legally irresponsible for the crime he committed is to be inferred from all the principles which have been stated above.†

* Reg. *v.* Gabbites, 'Times,' 18th December, 1866.

† The case of Pierre Joseph Delphine, which will be found in Georget's 'Discussion Medico-légal sur la Folie,' pp. 130—144, may be consulted in this connection.

CHAPTER V.

ON THE PATHOLOGY AND SYMPTOMS OF MANIA.

Diseases have histories, and he who would rightly understand a disease must know something of its cause and course. Many men have made a careful study of disease without first arriving at any thorough conclusions as to the conditions of health. But as disease is a departure from health, it can only be thoroughly understood by those who know in what health consists. Any excellent pathology must be preceded by a careful physiology. Perhaps the significance of this fact will be the better appreciated in connection with the consideration of the commencement of disease. Seeing a thing in the making is the way to understand it when made. The process which goes on thus before our eyes is an actual synthesis. So it is that the observation of the progress of a disease is the easiest way of becoming acquainted with its real nature. How much a thorough knowledge of the beginning of disease might tend to facilitate its cure it would be difficult to speculate. The little deviations from the normal state are the types of greater alienations. Disease has a potential and a kinetic energy. In its progress it parts with its potential energy and gains kinetic. It is this kinetic phase of disease which is that which is really to be dealt with by the physician, and the excellence of becoming acquainted with disease in its potential form is therefore evident. To know the beginnings of things is to know something of the ends and middles too. Now, in considering a case of insanity we become acquainted with certain peculiarities of conduct, of thought, of feeling. If a man believes that he constantly sees dogs, and that they are worrying a child—if we become assured of the fact that he really has this delusion—we become acquainted with a mental symptom of insanity. He is in a condition in which he is unable to distinguish between subjective

thought and objective thought; in relation to these imaginings his subjectivity has become objective. So if a man's conduct is entirely different from that of the rest of mankind, if the motives which influence the actions of ordinary human beings have not the same effect upon him, we infer a certain intellectual obliquity, owing to a similar loss of appreciation of the relativity of the mind and its *other* matter. As yet, however, all our inferences have only gone a little way; and the question naturally arises, what is the cause of this loss of power to distinguish between subjective and objective? Now, the answer invariably given to such questions is, that all these mental symptoms are due to some pathological condition of the nerve centres. True, although much attention has, in recent times, been paid to pathological anatomy, there are many cases of mental unsoundness in which no organic lesion can be discovered subsequent to the death of the patient. But little doubt exists in the mind of any who has considered the subject that all mental unsoundness, whether it be delirium, coma, idiocy, mania, or dementia, is due to some morbid condition of the organism. The fact that even after well-marked insanity no pathological change sufficient to account for the mental symptoms which existed during life is discoverable, only proves that the means of research and observation are defective; and the fact that in proportion to the better acquaintance of pathologists with the anatomy and the sensible qualities of brain, in proportion to the care with which post-mortem examinations have been performed, has been the rarity of those cases in which the organism presents no morbid changes, points to the above explanation as the truth of this much disputed matter. That this has been a subject upon which opinions have differed very widely is a matter of history, and many people even at the present day would object to hearing the brain called the organ of mind. There is some reason for this prejudice, for some enthusiastic physiologists, when it has been granted that mind is dependent upon brain for its manifestations, at once assert the non-existence of mind, and say that thought is a function of brain. That the brain secretes thought is a somewhat fashionable tenet. And it is the horror of this doctrine that induces many people to hesitate before they admit the dependence of mind upon brain for its external manifestations. Physiologists assert that, whatever mind is, it is brought into connection with matter by means of brain. But the truth of the matter is this—that nothing but thought actually exists. But

thought becomes objective through its other body. Brain, therefore, is necessary for the externalization of thought. Thought exists without brain, but it is only made manifest in conduct by means of brain, just as light may exist without shadow, but it could not be cognizable to mortal eye without darkness. Now, suppose a lamp-flame to shine through a patterned globe. The light throws the shapes which are upon the globe upon the walls of the room. Every flaw in the glass makes a contortion in the rays. And so it is with mind and brain. Every pathological condition of brain produces a contortion in the rays of thought, produces peculiarities in that external thought which we call conduct. In this way there can be no act done, no thought thought, no feeling felt, which is not dependent for its externalization upon brain, and any abnormal manifestation of thought is due to some morbid condition of the medium of its externalization. This seems to be a theory which is compatible with the actual discoveries of science and with the higher truths of philosophy. These morbid changes may themselves be due to thought. We find that much insanity is owing to mental shocks, to anxiety, and the like. This pathological condition might, to return to our simile, be compared to the cracking of the globe which is about the light, by reason of something connected with the light itself, as, for instance, the heat. But for all our purposes in this place it will be sufficient for us to consider a pathological condition of some of the nerve centres as the proximate cause of all insanity.

It is well to remember that insanity may exist while all the bodily functions are healthy, but that it is very frequently associated with epilepsy, apoplexy, and other cerebral disorders; or that it may arise in the course of such diseases as fevers, phthisis, acute rheumatism, and the like. Thus it is that the morbid action which arises, it may be in the digestive system, is reflected to the brain by that peculiar nervous sympathy which it ought to be the object of medical science to endeavour to understand. This fact does not, however, militate against the theory which has been advanced above, and it explains the position of the philosophic medicists who have argued that the brain is not the seat of insanity. Some have supposed that insanity consisted of a morbid condition of the vital principle, and others have gone so far as to assert that insanity was due to a morbid condition of the soul itself. For a long time the methods which were applied to the discovery of the pathology of

ordinary diseases were not applied to the pathology of insanity, and it is only very recently that any real system of pathological examination has been instituted in our large institutions for the insane, which have all along been talked about as magnificent fields for observation, while the only method by which observation could be made of the least service to humanity was rarely or never had recourse to. Of course much, very much, remains to be done. Robert Browning, borrowing from Goëthe, unconsciously perhaps, speaks of the—

"Petty done, the undone vast,"

and to nothing could this phrase apply with more force than the so-called science of the Pathology of Insanity. But the recognition of its importance is certainly an effort directed in the right way. If, then, it is understood that the brain has a certain structure and qualities, if it is understood that in this respect it is exactly similar to a nerve or a muscle, and that it is its properties and functions which must be the object of the study of the morbid anatomist some advance has been made. But, as Professor Bennet has said, "Psychologists content themselves with repeating well-known clinical observations, with the ordinary morbid anatomy or density of the brain, and with the metaphysical speculations which have been pushed as far as, if not further than, human intellect can carry them. Need we feel surprised that the true pathology of insanity is unknown? What we desiderate is a careful scrutiny of the organ. Hitherto the difficulties of such an investigation have been insurmountable, in consequence of our imperfect methods of research. But let any one possessing a competent knowledge of histology and the use of our best microscopes with the opportunities our large asylums offer, only now dedicate himself to the task, and he may be assured that while extending the bounds of science he will certainly obtain an amount of fame and honour that few can hope to arrive at."*

With regard to what has been done in this science of pathology we must be content to say very little in this place. But the recognition of the general principles stated above is necessary to the understanding of a complete system of medical jurisprudence of Insanity. Further, in explanation of the statement that frequently

* "Lectures on Molecular Physiology, Pathology, and Therapeutics." Lecture iv, 'Lancet,' April 25, 1863.

insanity exists in cases where post-mortem examination can reveal no organic lesion, it is well to remember that pathologists are agreed that in most cases where changes are observable they are due to a long-continued exaltation of action in the part to which they have given the name *irritation*. Abnormal vital action then produces derangement in the functions of the organ in which it occurs, and does not, at the same time, produce any discernible change in its appearance. Often we might as well try to discover a change in the hand of an artist, indicative of the exaltation of function which is called skill, as endeavour to find any physical indications of the abnormality of function which is designated disease. But that a change has taken place is surely a perfectly fair inference. We cannot see or feel the imponderable ether which is in space and which is the medium for the transmission of light and heat, but we believe in its existence. So it is with those minute changes which have taken place in the organism. One thing is to be remembered, and that is, that there is a perfect parallelism between insanity and other diseases. In its causes, its rise, its progress, in its termination in death in chronic disease or in cure, it exactly resembles any ordinary bodily disorder. In its possible modification by the use of drugs, and even in the possibility of its being influenced by the mental impressions of the individual, there is much that is common between it and ordinary physical disease. Its inception is generally marked by sleeplessness, sometimes by pain or heat in the head, and not unfrequently by a considerable alteration in the feelings and emotions of the individual affected.

Symptoms of Mania.—It is evident that what would be a rational belief to one man would be a delusion to another. That conduct which would be indicative of insanity in one man would be indicative of mental health in another, and this fact does not depend upon the mere accidental differences of rank, position, or means, but upon actual differences of mental constitution. A man's thoughts in health bear a certain relation to his environment, and that relation is not the same in any two men. One loves to live in the dusty atmosphere of a museum, while another enjoys risking his life in climbing the Matterhorn. One man finds pleasure in dancing, and another only feels happy when he is beside running brooks which murmur through a green country braided with hawthorn hedges. Yet, notwithstanding this wonderful variety, there is a persistent unity. Although each thinks that his neighbour's enjoyments are

absurd, yet each is in reality influenced by the same motives, although they are connected with different objects in the world of sense. The past life of each has an influence on and determines the flow of energy in the present. The man who loves dancing probably does it well; everybody acknowledges that he does it well. And this is one of the reasons why he likes it. The exercise of skill is pleasant in itself; the association with persons of the other sex; the rapid motion; the adaptation of motion to the rhythm of the tune,—all these are ordinary motives. The man who climbs the Jung-Frau is influenced by exactly similar considerations; he likes to be talked about. To be thought bold is pleasant. Then he may have got to the top first, or before some others of his party, or in a shorter time than any one who has been up this year. The exertion itself and the consciousness of having overcome difficulties, of having surmounted obstacles,—all these are the ordinary inducements of a healthy mind to action. So it is in the case of the man who loves the country, or who delights in minerals or stuffed birds. But the unhealthy mind is one which is not influenced in the same way as that which is in a normal condition. Eccentricity, so long as the motives which induced to the peculiarity in the first instance, and the habit which made permanent this departure from the symmetry of character in the second are healthy, is not a symptom of insanity. But where there is a well-marked change of character without any adequate external cause, then it is certain that mental disease of some sort exists. Thus, that a man should be saddened by a death is natural. That in some characters this sadness should continue for a very long period of time, and that habit itself should tend to continue this melancholy, is what we should expect from a careful study of human nature. Indeed, even sorrow becomes in time a luxury, and there is truth in Rogers' lines:

> "Go, you may call it madness, folly!
> You shall not chase my grief away.
> There's such a joy in melancholy
> I would not, if I could, be gay."

All this is compatible with perfect mental health. But if we find an individual suddenly becoming sorrowful without some such external cause; if we find exaggerated fears as to the safety of a soul and the wrath of God; if we discover a morbid consciousness of self, then we are in a position to diagnose insanity.

Wilhelm Meister thought that the true way to study the character of Hamlet, that great psychological riddle, was, in the first place, "to investigate every trace of his character as it had shown itself before his father's death, to endeavour to distinguish what in it was independent of this mournful event, independent of the terrible events that followed, and what most probably the young man would have been had no such thing occurred."* Now, there is much to be said for a similar method in the study of insanity. A careful comparison should be instituted—at least, in all doubtful cases—between the character and disposition of the individual while sane, and the character and disposition as influenced and modified by the presence of disease. That this will in all cases yield a light where, but for some such method, there would be darkness, seems to us certain. With regard to the early indications of the presence of mania, the following statements seem to be true. It is necessary to distinguish between acute mania and acute mania with delirium. The latter has a rapid course either to recovery or death; the former may continue for months without much danger to life. Mania proper may be preceded by premonitory symptoms, or it may come on suddenly. One of the most frequent premonitory symptoms is slight depression. Guislain believed that this occurred in the great majority of cases.† This is followed by some peculiarities in conduct, by some stupid business transaction, by something which the individual, if he had been "quite himself," would not have done. Not unfrequently the individual manifests a strong desire for spirituous liquors, and often yields to this desire. At this stage of the disease there may be slight derangement of the digestive functions, of the circulation, and of nutrition. The pain in the head which we have already noticed, accompanied by sleeplessness, agitating dreams, crowding illusions, vertigo, tenderness of the abdomen and gums, are also frequently to be met with. Subsequent to this stage eccentricities and extravagances of conduct, of speech, of behaviour, become persistent, and motives which were formerly efficacious as restraints are now utterly futile. The individual loses all sense of propriety and of decency, becomes mischievous in an extreme degree, wet and dirty in habits, abusive in language. Degeneration proceeds, and the little power of control that the in-

* Carlyle's Translation.

† See also Georget, 'Dictionnaire de Médecine,' art. "Folie."

dividual was formerly able to exercise over himself is lost. The intention of giving trouble and annoyance now no longer exists; the individual raves incoherently; delusions of the most incongruous and absurd description chase one another through the individual's brain; there is no coherence even in their false beliefs; the language is obscene and disgusting, the habits are filthy; their acts are full of the same incoherence that distinguishes their thoughts; they break windows or pieces of furniture, tear clothes, or practise self-abuse. With all this, however, the bodily health of the patient is generally good. If the strength of the individual has been much impaired previous to the commencement of the mania, the violence of the disease may cause death through exhaustion. But if the constitution is good the mental excitement may continue for weeks or months without leading to a fatal termination.

It is a curious fact that maniacs, even in their most violent moments, seem to be somehow conscious of the strange incongruity and absurdity of their conduct. And even when the fury is at its worst many of the acts seem to be the result of a bravado, very much like that which exists in sane men, and which often leads them to do all manner of stupid and even criminal acts. When the disease is at its height there is an anæsthetic condition of the body. It is a peculiarity of all strong emotion that it concentrates attention; and when attention is concentrated on one thing it is abstracted from another. Nothing is truer than the fact that we have to go to meet sensations; that the mind trysts, as it were, with pain at the periphery, or it is not felt. So it is not difficult to understand that the strange strength of emotion which we find in mania should render the individual insensible to heat or cold, hunger or thirst. Again, the muscular power seems to be considerably developed in all cases of mania. Anything done "with a will" is powerful. Most of the sane man's acts are only half-acts. Motives there always are which suggest inaction, and these are almost as powerful as those which urge to action. It is, as it were, with the force of the difference between these that a man works. An ordinary sane man is always half-hearted in all his doings, and this makes him weak. The maniac is in earnest about whatever he does. Consequences do not weigh with him as they do with his sane neighbour. He is not careful either of others or himself. It is this that makes him strong. Enthusiasm is, as it were, a sort of direction of mania to

a single purpose. Some other symptoms which are occasionally overlooked are worthy of mention. The voice of the individual is changed; the eye has a strange expression which the words "wild" and "glassy" but inefficiently convey. Again, the odour of the skin is to be noted in any complete enumeration of symptoms. As the perfume of the skin of healthy individuals is a source of pleasure, and is intimately connected with the sexual functions, so the odour of individuals who labour under mania is disagreeable, and is, along with peculiarly offensive odour of the intestinal excretions, to be accounted for by some chemical change produced in the organism by the nervous disturbance. Again, the appetite is generally good, or, rather, voracious. The patients become thinner. They occasionally pass a good night, but sometimes pass weeks without indicating the least necessity for slumber. The tongue may be foul, but, on the whole, the general health is good. Enough, however, has been said to enable those who are brought into relation to the insane to recognise this form of insanity. And while it was necessary to say something concerning the most prominent symptoms of mania, it will be understood that this is not the place to dwell particularly upon the phases of each of the kinds of mania which may be distinguished. Some general description was, however, necessary before classifying the species of mania according to their mental symptoms. This classification is not difficult. There is evidently a well-marked distinction in nature between the cognitive powers of mind and the desiring and feeling powers or faculties. The one is the intellectual part of a man's nature; the other the emotional part. As the operations of these two parts of humanity upon the outside nature which is presented to them are very different, so effects of external nature upon those two classes of powers vary infinitely. This enables us to introduce a broad distinction between the morbid conditions of the brain, which is founded upon the fact that in many cases the intellectual nature of a man alone seems to be affected by disease; while, in other cases, the intellectual faculties are to all appearance intact, while the emotional are manifested through or by means of a diseased organism. Thus, then, we distinguish between intellectual and moral (emotional) mania.

But it will be understood by those who know anything of mind that neither health nor disease is a constant quantity in all the

faculties of mind. Habit digs trenches, and healthy or diseased energy run through them as water does in the river course. One man has a good memory, and another has a bad memory. One man has a memory for dates, another for faces, and so on. And as we find that men have skill in certain acts in health, we would expect to find that they were incapacitated from doing certain acts by disease. As men argue from the height of the Himalayas and Andes to the depths of the sea, so might we have arrived at some conclusion as to the characteristics of disease from the known qualities of health. And the fact is that observation enables us to confirm our expectations. We find that as the mind may sometimes be said to be wholly sane, so may it be said, upon occasion, to be wholly mad. And as we find one faculty in health towering like a mountain above its neighbours, so in disease we find that, as it were, depth's of disease sinks below the ordinary healthy level of a sound mind. So we find that we have arrived at another principle of classification, and we have under intellectual mania, general intellectual mania and partial intellectual mania; and under moral mania we have general moral mania and partial moral mania. Of these, then, in their order.

CHAPTER VI.

ON INTELLECTUAL MANIA.

General Intellectual Mania.—The heading of this chapter conveys some notion of the mental symptoms of this form of insanity. We have seen that mania is often preceded by depression—that it is marked by a great change in the desires and feelings and habits of the individual. In this form of the disease, however, we would expect to find not only a disordered state of the cognitive faculties, but a total perversion of all the emotional qualities of the individual. The maniac becomes indifferent to those whom he loved most, insensible to ties which formerly influenced his whole being, and all the kindly affections and noble desires are replaced by the worst characteristics of a depraved disposition, and the most filthy propensities. But still the terrible chaos of thought, broken—as a storm cloud is by shafts of light—by periods of coherence, is the most marked feature in some cases; and these are the cases of which we would speak in this chapter. We have already alluded to the psychical symptoms of the early stages of the disease, but a more minute description is necessary. At first the individual may show symptoms of irritability, and along with this there is a more rapid succession of ideas. This is not simply the healthy increase of mental activity. Almost at once there are signs of peculiarity in the association of ideas. Memory is exalted. As after an earthquake fishes are found on the shore that were never seen before, so in this state of mania, recollections and reminiscences which have not been in consciousness for years return to it. Sometimes at this stage of the disease there is a development of powers of which the individual had not made any use. Thus grave sad men become humorous, kindly men become sarcastic, dull men become eloquent, and shy men bold. Griesinger mentions a case in which a patient, under these

conditions, could strikingly delineate any slight resemblance to animals in the physiognomies of those around him.* These symptoms are not by any means common. As we have stated above, incoherence is observable, in most cases, from the beginning. Most ideas which pass through the mind of the maniac are crude, half-thought, "deformed, unfinished, and scarce half made up." They are governed and determined to a certain extent by the impressions of sense. We find, however, that the laws which govern the association of these ideas are not those which govern the ideas of a sane man. Sane men's thoughts cling together. There are affinities in their thoughts. They enter, as it were, into chemical combination, but the thoughts of the individual who labours under general intellectual mania seem to resemble a mechanical mixture in their mental relations. We hear scraps of songs, isolated words, figures, cries, sentences, rhymes, and the like, all jumbled in the conversation of the maniac. Sometimes a similarity of sound seems to have for a time the power of rescuing something from chaos, and the individual may continue to speak in verse. Utter confusion, then, is the characteristic of general intellectual mania. Persistent delirious conceptions cannot be said to exist in it, the false impressions are as unstable as everything else. The condition of mind is apparently a constant stampede of ideas. The fleeting delusive and illusive beliefs are constant in this disease. They may exist with regard to the surroundings of the individual—they may affect the feeling of self. Thus we frequently find the patient believes himself to be a king, or Mahomet, or God. The extraordinary increase of mental activity conveys the impression of pleasure, of grandeur, of magnificence, to the individual, and influences his delusions. Not uncommon are such assertions as, "I am made of wood," "I am in everything," "The world is my body," which are connected with the same mental impressions, and are due to a want of the power of discriminating between the objective and the subjective. It is evident that to subjectivity alone—if a separate existence of subjectivity in the flesh was possible—self would be the all; and in this diseased state subjectivity is more prominent than objective existences. But in all these delusions and illusions there is the characteristic of instability. They do not remain. Maniacs are "to one thing constant never." There is no time allowed for the forma-

* Griesinger on 'Mental Diseases,' New Syd. Soc. ed., p. 283.

tion of a habit. There is generally a want of conviction in the reality of the delusions present to the consciousness of the individual himself. Maniacs often laugh at the incongruity of what they themselves say. Still some circumstances remain to be mentioned with regard to the intellectual peculiarities of this disease. It frequently happens that in spite of incoherence of the most marked character, the memory seems to be under the influence of the ordinary laws of association. The individual remembers many events and circumstances with perfect accuracy. Dr. Guy relates the case of a lady concerning whom he was consulted. She had suffered from mania for a long term of years, and was subject to paroxysms of extreme violence. "In one of these paroxysms she had destroyed some valuable papers belonging to her husband, and yet after the lapse of twenty years, during an interval of extreme tranquillity, she reverted to the occurrence, and expressed her regret at what had happened;"* and what Mr. Erskine said† shows that the fact has been appreciated by lawyers. He said: "In all cases which have filled Westminster Hall with the most complicated considerations, the lunatics and other insane persons who have been the subjects of them have not only had memory in my sense of the expression—they have not only had the most perfect knowledge and recollection of all the relations they stood in towards others, and of the acts and circumstances of their lives, but have in general been remarkable for subtlety and acuteness. Defects in their reasonings have seldom been traceable—the disease consisting in delusive sources of thought—all their deductions within the scope of their malady being founded on immoveable assumptions of matters as realities either without any foundation whatever, or so distorted and disfigured by fancy as to be nearly the same thing as their creation." This not only shows what it was quoted to indicate, but it also shows that in the legal profession the matter is only very partially understood even by those who have brought much ability to bear upon the question. Mr. Erskine has evidently been influenced by what Locke says of the insane, that, "having joined together some ideas very wrongly, they mistake them for truths, and they err as men do who argue right from wrong principles."‡ That this is not the case those who know

* Guy's 'Forensic Medicine,' p. 179, 2nd ed.

† 8 Hargrave's State Trials, 322.

‡ Essay, Book II, ch. xi, § 13.

the characteristics of mania are aware. But it is true that the person who suffers from mania has sufficient power of reminiscence to be able to recall and describe events which happened in the remote past, that he knows all that is taking place around him, and he will sometimes remain calm for a few moments, will listen to what is said, and will even laugh at a joke. And some can even reason concerning their state of mind during the continuance of the attack. Jacobi mentions a patient who said, "It is actually terrible when the thoughts so run into one another in one's head."* It is necessary—custom is a sort of law—to say something of the illusions and delusions of mania. Most of the explanations of these phenomena which have been given seem to us eminently unsatisfactory.

We have already said that the mind goes to meet sensation. Even looked at in the light of Professor Bain's system—of what might be called a transcendental physiology—and has been called "a natural history of mind," this assertion is true. He finds that it is a fact of the human organism, that there is a power of generating active nerve-currents from within outwards, which seems to be a necessity of mere sensation. And it has been remarked that this theory is not unlike that of Kant himself, who showed that intellectual function was, in fact, the greater part, if not the whole, of sensuous affection. If this be so, (and we cannot doubt its accuracy) the whole question of illusions and delusions becomes clear. Just as in dreams the objective is dissociated from the subjective, so in insanity the individual's subjectivity, being so much strengthened by the progress of disease, impresses its own character upon the objective facts of the universe. It is as if a king said to all foreigners who came to his frontier, "Before you cross the boundary you must wear the dress of my subjects." So it is with mind: every sensation is dressed, is shaped—it may be deformed and distorted, by mind, and so it comes to the audience chamber, consciousness, with precisely the same guarantees of reality as any of the sensations which are conveyed to the mind of the insane person. "Error," says Cousin,† "is one of the elements of thought taken for the whole of thought. Error is an incomplete truth converted into an absolute truth." The subjective impression of the lunatic has become objective to him. There is a want of harmony between the *a priori* forms

* Die Hauptformen der Seeleustörungen.

† 'History of Philosophy.' Appleton & Co., New York, 1852., vol. I, p. 146.

of thought, and the other of thought, which is the *outer* of mind. Thus Kant is right when he says, "The senses do not deceive us at all, it is only the judgment which deceives us." Thus, when the rustling of leaves is mistaken for whispers, when the child tries to catch at the moon as it would at a bright object on the table, when a shadow is mistaken for a substance—all these things are due to errors of judgment. This is well illustrated by Feuchtersleben, who says, when speaking of illusions of the sense of touch: "Among the illusions of touch of a psychical nature, may be reckoned the well-known experiment with a little ball of marble, which, being moved between two fingers laid across each other, appears double, because the judgment ascribes the segments of the ball felt in opposite directions to two objects."* So it is with delusions, between which and illusions the distinction is more apparent than real. It is the subjective becoming objective, as in the case of illusions. That this is common even in a healthy state is proved by any popular entertainment of wizard magic, by any popular work on optical illusions, and by the experience of many persons who are quite able to observe their own mental processes with accuracy and intelligence. Thus, Pascal believed in a fiery gulf or abyss close by his writing table.† Trousseau mentions a gentleman who, "although perfectly sane, had an irresistible desire to shriek." He yielded to this desire very frequently.‡ Swedenborg saw spirits,§ and Goethe relates that during a ride on horseback he saw, as in a waking dream, himself riding to meet himself in a light grey dress.‖ And we ourselves know a gentleman who has the power of recalling any scene he has looked upon. He says that this vision is quite different from ordinary memory, and that it is as real as any of the impressions conveyed in ordinary sight. Many children have the power of projecting their own thoughts on the darkness. The painter Spinelte, who had represented the devil in a most frightful form, at length fancied he saw him in reality. And Blake, who painted demoniacal forms, is said to have had visions of them.¶ That

* 'Medical Psychology,' Syd. ed., p. 231.

† Mentioned in Conolly's 'Indications of Insanity,' p. 316.

‡ Lectures, p. 151.

§ Emerson's 'Representative Men.' ‖ Vol. xxvi, p. 83.

¶ Some very interesting cases of illusion will be found in Sir David Brewster's 'Natural Magic.'

many of the extraordinary phenomena of second sight may be accounted for by the fact of the possession of this power seems to us certain.

One or two more observations may be made with regard to the distinguishing characteristics of mania; and the whole of this description will, it seems to us, throw light upon the phenomena of insanity in general. Thus, it may be remarked that many of the strange actions of a madman or maniac are due to his delusions; but many of these are to be ascribed to the simple overflow of energy, which cannot find vent in any ordinary healthy channel, and which produces excessive muscular activity. The madman's acts and the sane man's laugh are closely connected in their psychological aspects. Again, the acts of the person who is maniacal are very often such as no sane person would believe to be suited to the attainment of the object which may be in view. The insane person gains nothing by the experience of failure. *Quoad* his insanity, he is not moulded by his faults. These are the characteristics of mania in so far as they seem to be necessary to the application of all the medico-legal questions which can arise, and to the decision of all points with regard to the legal relations of the individual, labouring under general intellectual mania, to the state.

Partial Intellectual Mania, or Monomania.—Monomania probably is due to an abnormal increase of the rapidity of thought in one direction towards the external objective universe. As in every other case, we find the type of this disease in healthy mental action; we are all conscious of the facility which is acquired in any mental process by the constant exercise of the mental function. Life like water runs most easily where it has run before. The will shapes actions in clay, but they are cast in bronze or iron without the intervention of the will. And so it is—as with idols—those gods which we have made with our own hands rule and influence our life. Now, health seems to be a kind of unstable equilibrium of forces. Whenever that equilibrium is deranged, then comes disease—aberration. A top when in motion is resting in a position of unstable equilibrium. But if it has a bias, if it is not symmetrical, it rocks, and it will come to rest the sooner. So it is with life and its symmetry. Too much bias in the flesh is disease. Thus it is that the increased rapidity of mental actions or of thoughts with regard to one object or kind of objects causes a decreased rapidity of the exercise of other

important mental functions. But want of use is abuse, and abuse soon causes disease. It is in this way that what in health may lead to discoveries, to the advancement of science, or to the manifestation of genius by means of words, when it becomes automatic or unhealthy leads to exalted predominant ideas and monomaniacal misconceptions. There is no more common form than this, and it is frequently manifested in relation to self-consciousness. When self-consciousness becomes a prominent object of thought it will invariably lead to pride. And nothing is more frequent in this class of cases than to find individuals believing themselves to be kings or queens, persons of the highest rank and greatest influence, great discoverers and propounders of new systems of philosophy, new creeds, and new sciences. All these beliefs will be found to be intimately connected with the life of the individual. The life, however, is not the events only, but the thoughts. Too many persons, in searching for the causes of morbid impressions, in tracing the evolution of insane thoughts, have been too much inclined to regard the external environment of the individual as alone of any importance, and have neglected to study the thoughts, which are not unfrequently antagonistic to circumstances, and are not always the direct reflection of the objective phenomena.

All these beliefs, and the many rapid thoughts which accompany them, are associated with pleasurable sensations. This is common to all states where there is an increased rapidity of thought, and it is equally true that pain is the concomitant of retarded mental activity. Spinoza has said that happiness is always a progress towards perfection; misery a falling back. But that theory does not seem to be borne out by the facts of the disease that is under consideration. Disease cannot be an approach towards perfection, and yet many monomaniacs, when under the influence of disease, will tell you that they never felt better in their lives. If a man is unreasoningly self-conscious, if no rebuke, no indignity, no insult can take from him that intense feeling of self-satisfaction, of great mental and bodily well-being which results from the overflow of energy into a certain mental channel, of course he is happy. Happiness is dependent upon motion for its manifestation. Laughter is an overflow of mental energy into the muscles; and ordinary language marks the commonness of the observation. So it is that there are not unfrequently marked symptoms in monomania which

are analogous to the signs of the presence of mania. All strong emotion tends to become external, and in the externalisation of feelings the belief in human and personal power has been found, and the pleasureableness of its exercise has been experienced. But there will always be a modification of these maniacal manifestations by other intense ideas, in the form of disease that is under consideration.

"The maniac," says Griesinger, "with simple exaltation of the sexual instinct, seeks to gratify his desire in the most direct manner; he attacks every female who comes in his way, and the nymphomaniac makes obscene advances to every visitor. In monomania, on the contrary, the exalted sexual-instinct before it passes into action is guided by new ideas and opinions (of a morbidly exalted kind) which occupy the mind. The patient will then only gratify his desires in the sense of his over estimate of self and of certain delirious ideas; he only pays his addresses to princesses and illustrious ladies. The female patients have imaginary love adventures with princes and kings."*

Monomania is a disease of that part of the disposition in which the man principally lives, for it surely can be more truly said that a man lives in his thoughts than in the material circumstances that surround him. It is in monomania, therefore, that illusions and delusions are most common, and it is in this form of the disease that these morbid impressions are most persistent. The awful abnormality of genuine mania produces such a "sea of troubles" that no delusion can remain long in possession of the individual. There is a rabble of ideas. Each delusion or illusion is jostled from its place by a host of others. But in monomania there is a peculiar persistence about the morbid impressions. The illusions are always the same. The individual believes that he sees a face which haunts him; hears voices which drive him to do some act; he is surrounded by odours, and the like. The delusions are persistent. The individual believes that the Holy Ghost has been incarnated in a canary bird, or that some worthless object is of enormous value.

Still, although these impressions are persistent, there is much rationality in monomaniacs. Concerning many subjects they are able to reason with great accuracy, and sometimes with intelligent breadth of conception, which is a higher quality of reasoning than

* 'Mental Pathology and Therapeutics' (Griesinger), p. 305, New Sydenham Society ed.

mere accuracy. There is a very evident difference between monomania and mania proper. The manners of the monomaniac are not distraught; they are generally calm, their conversation is generally intelligent, and such excitement as occasionally exists is due, as in sane individuals, to an external motive. It may be, however, that the external motive is misunderstood in consequence of the illusion or delusion of the individual. Of course there is harmony between the manners and conduct of the monomaniac and his diseased imaginings. Monomania of pride finds expressions in gestures which to the individual himself do not seem to have any of the characteristics of grimace. Many persons in asylums are allowed to gratify their harmless liking for gaudy raiment and trappings of ribbons, and their words and gestures are possibly exaggerated in consequence of this indulgence. "A change of skin," says Victor Hugo, "is often a change of soul."

But of course their conduct is regulated by their insane ideas, and is a manifestation of the presence of the disease. The other symptoms, which are not to be found in the conduct of the patient, very much resemble those which are characteristic of mania. When the attack is recent there is generally a feverish condition present, and this is followed by sleeplessness, constipation, and sometimes cerebral congestion.

It is very rarely the case that a fixed idea which has existed in the mind for some time is irradicated. We find that the deeper rooted a prejudice is the more difficult is it to root it up. We find that the longer an idea has had possession of us the more difficult is it for us to get rid of this dominant impression. Many persons who have learned to reason ably concerning almost every subject find it as impossible to reason themselves out of some of the superstitions of their childhood as it is to reason themselves out of the belief in the toothache when it is actually present. It is, therefore, not difficult to believe that these fixed ideas which we have in another place called prejudices in the flesh, should be less accessible to reason, that they should be less amenable to treatment, and that in many cases the disease should defy all efforts which are undertaken with a view to its cure. When the delusions are somewhat obliterated by loss of memory and other mental weakness or by incoherence, the chances of recovery are very small. The chronic monomaniac does not manifest the same mental excitement that has been mentioned as

a symptom of the earlier stages of the disease. The strange fixed delusion remains along with a somewhat stupid calm, and with a normal physical condition. Not unfrequently, however, monomania is followed by a state of profound dementia. There is much interest connected with those cases in which insanity is manifested by the loss of language, while all the other mental faculties remain intact. This phenomenon is sometimes shown in relation to single words. A person may drop some words, as it were, out of their vocabulary, or the mental effort which is meant to call up one word may have the effect of calling up another, and that one which seems to ordinary individuals utterly dissociated from that which ought to have found place in the sentence. Thus, if a man wishes to use the word "yes," the word "house" be invariably substituted for the simple affirmative, it may, to the individual thus using it, seem to have all the significance of the other word. This disease, which can be traced to a derangement of those laws which have to do with association, and with those powers which have to do with the perception of the relations of identity and difference, must have, in time to come, much bearing upon the questions with regard to the relations of insane persons to the state, and an opportunity will arise which will enable us to state some opinions which ought to guide the admission or recognition of such facts in courts of law. In this place it is sufficient to point out the existence of such a limited disease as aphasia, as it was necessary to point out the fact that insanity is very often partial in a very marked manner, and to recognise the affinity which seems to exist between certain abnormal conditions and certain healthy functions.

Much has been said concerning the connection between bodily disease and mental affection. We have the phenomenon of dreams described and explained upon a similar principle. A man dreams he is in the coils of a boa-constrictor, and awakes to find that the sheet is wound tightly round him. Another dreams that he is in hell, and awakes to find that the candle with which he was reading has set fire to the bed-curtains. And such anecdotes pass for reasoning. So it is that the case given by Esquirol is thought to throw great light on the phenomena of monomania. This is the case of a woman who, during life, believed she was pregnant with the devil, and in whose womb, after death, there was found a mass of hydatids.*

* A case has just been mentioned to us. A woman who was confined in a lunatic

But it is an incontrovertible fact that many illusions and delusions are, so far as we can say, entirely unconnected with any physical impressions, and that, notwithstanding what has been said to the contrary, many of these are dissipated by the skilful application of arguments. "I have often," says one who has devoted a long life to the treatment of mental disease, "done as much good by a kind or clever word, or by well-put irony or ridicule, as by drugs or specifics." One of Mr. Maury's patients, after thinking himself cured of a serpent in his bowels by means of a pretended surgical operation, suddenly took up the idea that the creature had left its ova behind ready to be hatched into a brood of young ones. He was again restored, however, by the dexterous reply of the physician, who assured him that the snake was a male one.*

It is surely as reasonable to expect that in some cases false mental impressions might be educated out of a man just as the evil tendencies which a man has at birth may be eradicated by means of a process of training. Those who deny the former must deny the latter. To many it seems unscientific to treat a symptom. But what do we know of any disease except its symptoms? We know a man by his actions, and a disease by its symptoms. As we are content in education if we can shape and modify a man's actions, and are conscious that thus we will modify the individual, so will we, by modifying the symptoms, change and influence the disease itself. And the very best systems of medicines can hope to do no more than this. Why the intellectual symptoms should not be treated it would be difficult to say. To show that some medical men have not failed to recognise the importance of the true use of the highest kind of moral treatment we may quote one or two cases.

"E. W—, a young woman who had been a schoolmistress, laboured under acute dementia. Dementia seems to be the death of the soul; a person can digest, but not think. The face, muscles, move the jaws, but never shape themselves in that wondrous mosaic of expression. E. W— sat or stood, she did not care to move; there was not sufficient zeal in her to make her live, she had not enthusiasm enough to wish to die. Tonics, shower-baths, electricity,

asylum believed that she was delivered of dolls, and was in the habit of fathering them upon any of the male officers of the institution. After her death it was discovered that she had suffered from enlargement and thickening of the neck of the womb and wasting of the ovaries.

* 'Medico-Chirurgical Review,' n.s., vol. xxi, p. 524.

stimulants, were tried and failed. Hers was a dead soul in a drooping, dying body. One morning, however, upon the occasion of the usual medical visit to the wards, she accosted the physician. She said, 'Doctor, I am better,' and she smiled. Smiles are the ornaments of health's temple; joy, not sorrow, is divine. There was some activity and energy in her movements and gestures. The story of her improvement and recovery was as follows; she explained the circumstances herself.

"At tea-time upon the previous evening, she said, she was in her usual state—conscious of all that was taking place around, but incapable of originating any action, and bowed down by a great weight—saturated by inactivity. A strange nurse entered the ward to relieve one of the ordinary nurses, who was going out on leave. It was a part of this nurse's duty to feed E. W— with her tea; during the meal she conversed with another nurse as she placed the morsels in E—'s mouth. In the course of the conversation she mentioned that she was somewhat strange to her duties, having just come from Lincoln, her native town. It was E. W—'s native town, and the mention of it raised the ghosts of a hundred dead events—of pleasant days of youth and love, perhaps—memories of home, with well-known faces about the hearth.

"A modern author has said, 'Home is the honey of this world-hive, which cures the stings the bees have given.' And if it is so, sweet memories are the mead that is made from it. Home! to whom is it not a magic word? All your 'prestos!' are frippery in comparison with that one word. It will bring tears into wanderers' eyes and smiles into dying faces, and so it brought smiles and health to the soulless woman. There was sunshine in her life from that moment; she is now energetic, industrious, and of sound mind."*

The statement of this case, although suited to popular exposition, is certainly excellent, and so admirable is the paper as a whole, and so closely connected are the cases there described to the subject in hand, that we feel entitled to make somewhat copious extracts.

"M. O—, a man with a very prominent nose, with sunken eyes. and nervous twitching hands, was confined in a lunatic asylum, How many men kill themselves because they are afraid of death! M. O— was in terror of being put to death; and an imagination,

* 'The Gentleman's Magazine' for March 1871, No. 34, n. s., p. 460.

probably in the leading strings of his trade associations, suggested that he was to be "boil'd down." He had a conscience, and he looked upon this frightful death as a recompense for those "wild oats" he had sown in his youth. To sow wild oats, and yourself to be garnered into a cauldron! Inventive Nemesis! Naturally the poor man suffered; who can be comfortable when they stand by while the furnace is being heated seven times? His misery ran into motion, as most pain does, and he would walk up and down and press and wring his hands, repenting as hard as he could for his sins, thinking, perhaps, to appease that boiling-down Nemesis. He would moan and rock himself for hours, and crave assistance from all who would listen to him. There is not much sympathy amongst lunatics."

"Once he was taken to the laundry to assist in carrying some clean clothes. A sad day, that! He reached the door, and there before him was a huge boiler, with its fire (like a mouth under its boiler brain) glowing underneath it. He shrieked and fled. Oh! great legs! the head cannot say "I have no need of thee." More heads have been kept safe from blows by legs than by their next neighbours, arms. Well, he fled, naturally believing that his hour was come, and that the laundry was the place of execution, to which he had been unfairly decoyed. One day the medical man of the establishment noticed that his patient derived considerable comfort and satisfaction from assurances of protection, and that in consequence of these assurances he seemed to regard him as in some way connected with his fate. The assurance was an assertion to that effect. It was, however, not sufficiently definite; and so one day he announced with some formality to M. O— that he was reprieved, and that his execution was postponed for two days. M. O— had faith as well as conscience, and he believed, and was, during the continuance of those two days, comparatively happy and comfortable. Of course he could not be quite happy; but to be boiled down two days hence is an infinity of bliss in comparison with being boiled down at once. Time is always hope, and hope is heaven. But the sands of two days ran out, and he became restless and unhappy as the time of his immunity came to an end. His medical man again visited him, and assured him that he would be spared for three days. Tears ran down his cheeks on each side of his great water-shed nose, and his thanks were warm and earnest. The visible pleasure of the

man tempted his physician to be too kind; and when by various reprieves he had reached a week, making those dead reprieves a stair by which to rise to higher things, he generously lengthened the time to a fortnight. M. O—'s joy was great. A fortnight! Eternity! But it was too long. When ten days had sped he again began to fear—he could not realise it, so that he had to be reduced again to two days. From this beginning, however, he was conducted up to a fortnight, three weeks, a month, three months, with perfect success. One evening, however, the physician was sent for. M. O— was in agony; there he was wringing his hands again, and piteously moaning. The time of the reprieve had run out, and the superintendent had neglected to renew it. Soon, however, he began to smile at the reprieves, but still asserted that he could not be comfortable without them. Subsequently their term of duration was much increased, and they ultimately became unnecessary. The man now works in the laundry beside the cauldron. He stokes its devouring maw!"

"B— was fed by means of the stomach pump three times a day for as many weeks; for he was brave enough in his fury to meet that snail-death, hunger. What a grand enthusiasm for death he had! Once he inflicted a blow upon his head by means of a plumber's hammer. It was so severe as to take him near to death's door, and for some weeks he was confined to bed. During his illness and tedious recovery, another patient was admitted into the asylum. This man's name was F—, and he was one of those who longed to get anywhere out of the world. This man was associated with B— under the care of a special attendant. It occurred to his physician to put F— under the care of B—. B— was made responsible for F—'s safety! Strange! It seems almost a joke to keep two people out of the grave by the struggle which each makes to get in first. A weird safety to be jostled away from death's door! Strange as it may seem, however, this expedient had the desired effect. B— took F— by the arm and walked him off, and since that time has devoted himself exclusively to the care of this much less dangerous patient. F— has more than once endeavoured to shuffle off this mortal coil, and his attempts have always been frustrated by B—, who has never, since he has become the guardian of another's life, seemed to entertain any hostile intentions with regard to his own. In this case, interest in the life and welfare of another has reared anew an interest in his own. His own life has

been saved, in all probability, by his endeavours to save that of another. Is not reward the *contre coup* of a good action? There is a great, deep, pathetic humour about this guardianship. B—, the most dangerous, most pertinacious, suicidal patient in the Institution watching F—! There is a detestable meanness in a thief catching a thief; but there is pathos in one suicide frustrating the attempts of another! If F— only lifted his hands to his throat B— put them down. If he approached the fireplace B— intercepted him. If he cast his eye on a dinner-knife, B—, ever watchful, winked, and laid hold of him. When he refuses his food, B—, if necessary, insists upon his taking it, or assists in its forcible administration by means of a stomach pump.

"They sleep in adjoining beds in the dormitory set apart for patients who are believed to labour under suicidal tendencies; and often in the course of the night B— rises, and on his bare feet on the cold floor will go noiselessly to see that F— is all right. In all his watchings he is kind, yet firm. It is a great thing to assist a neighbour to do right, and in that way make the home temptations to do wrong less urgent. Such acts are 'twice blessed.'" *

There is certainly much interest in these cases, as they not only indicate the forms that monomania may assume, but also point out the true uses of moral treatment. Although in most cases of simple monomania the intellectual powers seem unaffected, except in so far as the single delusion or illusion is concerned, and the individual seems to reason as accurately as he would do in a state of normal health, still in many cases the disorder is not so limited, and the morbid ideas are not confined to a single subject. It is scarcely possible that such a mental parasite as a delusion could coexist with complete mental health. Upon most subjects a man can scarcely reason fully or well without making use of almost all his knowledge. When, therefore, a large portion of that garnered experience is rendered useless by the existence of a false and persistent mental impression, the deductions of reason are likely to be the less trustworthy. The reasoning of a half man is never so good as the reasoning of a whole man. Of course the influence of a delusion, or of a false impression of sense, upon the life of the individual, varies in proportion to the influence of the thoughts of the same individual upon the same subject. Thus, if a man believed that he

* There are other interesting cases given in this article.

constantly heard the whisper of a silk dress, and was otherwise perfectly sane, one could understand that such a belief could have little or no influence upon the actual life of the individual. But if a man believed that his own wife had entered into a conspiracy against him—if his disposition was so far changed by disease as to make him hate and suspect those persons whom he had formerly loved and trusted—it would be impossible to calculate the influence of such a diseased condition upon the life of the person thus affected. This is a fact, which the use of such words as monomania or partial mania are very apt to conceal from those who are only partially acquainted with medical psychology, and it is a fact that it is very important each medical man should duly appreciate.

CHAPTER VII.

ON MORAL MANIA.

That the one black sheep which is within the fold of a respectable household should be whitewashed, may, to piebald brothers and sisters, seem a desirable thing. That a family moving in good society, and living in a good street, should, in the event of one of its members committing a crime, have recourse to the family physician rather than to the police, and should look upon the act as a symptom of disease and not as a crime in the true sense of the word, seems a very natural proceeding. For a long time insanity was looked upon as the work of God's hand, while, even at the present day, the devil is regarded as the mechanist of crime. If, then, a family has an opportunity of mistaking the hand of the devil for that of God, it will probably embrace it. Many a one when asked, like Sam Weller, if he can see the individual who was guilty of contempt of court, and knows that that individual is a relation, and had laid himself open to punishment, will look at the ceiling, and say "No!" Heaven knows that the grandest things upon earth are those dear home-eyes which will not see our faults—those dear lips that are "no thoroughfare" for reproaches, and those dear heads which are armouries full of defences of our errors, which would fain find a leaning to virtue in all our vices, and the mental darkness caused by the shadow of God's hand in that night of the moral life in which the devil rides. But although friends may be breakwaters about the home-harbour, it is the duty of a government to punish crime, and in order to do so it is necessary to distinguish crime from insanity.

Is there, then, such a disease as moral mania?—a disease the symptom of which is crime—and if there is such a disease, how is it to be distinguished from immorality? Pinel was the first who

asserted that there were "many maniacs who betrayed no lesion whatever of the understanding, but were under the dominion of instinctive and abstract fury, as if the affective faculties alone had sustained injury;" and very many writers since his time have distinguished between intellectual and moral insanity. Some have argued that this disease is exclusively confined to the moral sense, that it may coexist with a perfectly healthy condition of every other faculty, and that the only symptom which manifests the presence of disease is depravity in a somewhat exceptional degree! That twenty convictions would prove a man mad, the law has as yet denied. That if the disease is manifested by no other symptoms than the commission of criminal acts, the individual shall be liable to the consequences of those acts, the law has upon more than one occasion asserted; and although many loud voices have been raised against the law on account of that denial and that assertion, the principle laid down seems to us to be sound. Nay, further, although we admit that crime is in many cases a sign of the presence of disease, and although we think that in most cases in which it is so, the history of the individual, and the presence of insanity or nervous disease in the parents will establish the fact of moral insanity in the individual under examination; we are of opinion that only on very rare occasions should moral insanity stand between the individual and the consequences of his criminal acts, for it seems to us certain that punishment is in most cases one of the means of cure, and that moral maniacs may be restrained from criminal acts by an adequate system of discipline!

The philosophy of the subject seems somewhat defective. We find frequent assertions that this disease consists in a morbid perversion of natural feelings, or habits, or moral dispositions, and that it is unaccompanied by any lesion of the intellect; that it is a disease of the moral sense, and various other assertions of similar import. Writers have not taken the trouble to ascertain, in the first instance, whether there be a moral sense or not; they have not endeavoured to discover whether it is possible that reason, when directed in one particular direction, can be affected with disease, while in other directions it can be exercised under all the conditions of health. It is an easy thing to take for granted, and then to assume as proved.

Ethics is the science of the laws of our actions looked at with

regard to their morality or immorality, and presupposes a knowledge of man as a moral agent. If, however, our ideas of right and wrong are formed in connection with the ideas of reward or punishment—if our dislike and disparagement of certain actions, and our approbation and praise of other actions, is founded on our belief that in the one case the individual committing the action should be punished, and that in the other case he should not, it is evident that our moral distinctions have an intellectual origin, and that any such phrases as moral sense, or conscience as distinguished from ordinary intellectual function, are apt to deceive, and any distinction between moral and intellectual insanity is unphilosophical. This is not the place to consider whether this is a true statement of the fact or not. Man, individually, ought to make all his actions perfect. Government has to be content with a moral code that will *do*. Government cannot enact the whole moral law as laid down in books of ethics or in great human hearts. All it can attempt is to make men free to be good if they will by restraining acts of violence. Expediency is essentially the science of government, and as that is the case it will be sufficient if we, in this place, point out what acts government ought to recognise as moral, what acts government ought to punish as immoral, and in what way a somewhat rough and ready morality may be applied to the solution of the questions which arise in reference to the so-called moral insanity.

That for all governmental purposes "good" may be defined as "happiness," and "bad" as "misery;" and that as each person's happiness is in this view regarded as good to that person, the general happiness must be regarded as a good to the aggregate of persons, seems to us to be true. That those actions which tend to the happiness of the individual, and which do not interfere with any enjoyment of other persons, should be regarded by the legislature as moral, and that such acts as lead either directly or indirectly to the misery of the individual, or which, while ministering to the happiness of the individual, are calculated to take, either directly or indirectly, from the happiness of others, should be regarded as immoral, seems to us fair. The government, be it representative or not, is a trustee for the community. The object of the trust is the attainment of the greatest amount of happiness to the *cestui que trust*, and one of the means adopted in this country for the

attainment of that object is the enactment of a code of laws, which declares that certain acts—believed to militate against the public good—shall be punished in case they are committed, not because government wishes to punish crime that has been committed, but because the invariable connection between an act and a serious disadvantage to the actor is likely to lead to the discontinuance of the act, and in that way lead to the greater happiness of the community.

The various mental peculiarities, some of degree, some of kind, which distinguish man from the brute, seem to be—1. The greater ability of the former to profit by experience, to get the essence out of facts, to learn something more from his faults and failures. 2. The more perfect means of communication which man possesses in grammatically constructed languages, and a much more complete repertory of the lower gestures, of body, and the higher gestures, of expression. 3. The more intimate relations of man to man than those which exist between animal and animal, which lead to an infinitely great play of feeling, to voluntary ornamentation, which is not directly connected with material well-being, and to which may be referred the tendency to associate, which is characteristic of man, and which induced Aristotle to call him a political being. But of these three characteristics of humanity the first seem to us, perhaps, the most important, and possibly the characteristic to which the development of the other two peculiarities might be referred. With regard to the power which is inherent in the being of man, of availing himself of surrounding phenomena, of profiting largely by experience, and of advancing through failure to success, through pain to pleasure, it must be borne in mind that animals have the same power, although in a less degree. Monkeys that have once burned their lips in swallowing hot liquids afterwards wait with patience until they are cooled.* Every one knows that by means of rewards and punishments dogs, cats, canaries, and fleas can be taught many things. But there is a certain degree in which this power or capacity is possessed by different animals, and beyond that power punishment is thrown away, or rather its effects are manifested, not in the improvement of the individual on whom the punishment is inflicted, but in deterioration both of the individual punishing and the individual punished. The doctrine of all true

* Bennet, 'Wanderings in New S. Wales,' vol. ii, p. 158.

educational or reformatory punishment is to punish as long as the individual and class to which he belongs, and on whom the example will operate most powerfully as a deterrent, have capacity sufficient directly to concatenate the suffering with the offence, and to understand how they may avoid the commission of a like crime. Any infliction of punishment under circumstances other than those just alluded to is not only inefficacious, but tends to diminish the aggregate happiness of mankind, and is to that extent a breach of the trust reposed in the government of the country. It will, therefore, be understood that repeated convictions on account of the same crime would naturally lead to a suspicion of an amount of incapacity which would justify the law in exempting an individual from criminal consequences; and while such an amount of incapacity is proved in reference to acts occurring in the life of the individual, other than those which have come under the cognizance of courts of law, the presumption is strengthened; and further, if in conjunction with these circumstances it is found, upon inquiry and examination, that there is an inherited tendency to insanity, or malformation of the skull—if the history of the case is such as to lead a physician to suppose that it is not impossible that the mind may be diseased, in such a case it seems to us that the law would do well to admit the existence of moral mania, and exempt the individual from the legal consequences of criminal acts. But the law is asked to do more: it is asked to believe that persons who, while "labouring under this disorder, are," according to Pritchard, "capable of reasoning or supporting an argument on any subject within their sphere of knowledge that may be presented to them—and they often display great ingenuity in giving reasons for their eccentric conduct, and in accounting for and justifying the state of moral feeling under which they appear to exist"*—are in no case fit objects for punishment. It is owing to such demands that the criminal courts of this country have been less willing to admit moral insanity as a bar to punishment than they would otherwise have been, for those persons who have gone so far as to assert that a morbid perversion of sentiments, as manifested by repeated acts of crime, should in all cases be treated as disease, have not hesitated to regard all crime as a form of morbidity, instead of regarding it, in its truest sense, as one of the conditions of the health of a com-

* 'Cyclopædia of Practical Medicine,' Art. "Insanity," p. 826.

munity. That such pretensions should have made lawyers and legislators sceptical as to the authority to be attached in questions of this kind to the evidence of medical gentlemen, was not to be wondered at. But the two questions—Is there moral insanity? and if it is proved, how far should law recognise it as depriving the individual of that capacity which is commensurate with responsility?—are distinct. As to its existence let us examine the evidence. 1. It is asserted by many of the ablest writers upon insanity. 2. There are many cases in which the motiveless character of the act done, the past history of the individual, the carelessness as to whether the commission of the crime is discovered or not, lead to a belief in the existence of insanity. We almost invariably find that this form of insanity is said to be accompanied by what are called "depraved impulses," and that it is asserted by many that "defective volition," and "perverted emotions" are mental symptoms of the presence of this form of disease. Now, as ordinary criminals have depraved impulses, as their wills must be defective to some extent, and as their reasoning powers must, through this deficiency, have led to their detection; as, further, the emotions of criminals are not generally of a very perfect human type, it would seem necessary clearly to understand what is meant by the assertions of those who pretend to know something about the subject. Before doing so we may state our belief that, through various circumstances to be afterwards alluded to, a man may reason correctly concerning one set of phenomena, while he was incapacitated from reasoning concerning other sets. We find in ordinary life that Reason does not seem to be current coin, but a sort of local issue—that the very familiarity with the logical sequence in relation to a certain class of facts renders the individual unable to appreciate the same identical sequence in relation to facts of a different nature—that there seem to be men who can reason concerning the dry-bone facts of science, and are utterly unable to grasp the sappy facts of human science. A very limited knowledge of abnormal conditions will serve to convince one of the truth of the fact that this is much more prominent in connection with disease. So that at this stage it would be wrong to deny that a mind, because it shows shrewdness and ingenuity with relation to many intellectual matters, may, at the same time, be unable to appreciate the relation of acts to personality

looked at in their moral relation, just as there are many perfectly sane persons who can never come to regard virtue as an end in itself, which must ever be one of the crowning advantages of all true morality; for, as Mr. Mill observes, "there is this difference between it (the love of virtue for its own sake) and the love of money, of power, or of fame, that all these may, and often do, render the individual noxious to the other members of the society to which he belongs, whereas there is nothing which makes him so much a blessing to them as the cultivation of the disinterested love of virtue."* We proceed, then, to inquire what this "impulsive insanity" may be. As for the literature of the subject, so far as it has come under our notice, it is simple assertion, together with reports of some cases in which impulse was supposed to be present; and we may say here, that if medical gentlemen would, instead of clamouring for the recognition of irresistible insane impulses in courts of law, devote themselves to the proof of their existence, their time might be more profitably spent.

We know how intimately all our feelings are connected with thought, and how much thought is influenced by feelings. Well has Bacon said—"The light of the understanding is not a dry light, but drenched in the will and affections;" and it is well, in further explanation, to add that thought is, as it were, the skeleton of our mental life, while feelings and desires are the muscles and nerves which clothe it. Under such circumstances it is impossible to see in what way the one set of faculties, so to speak, can be affected without the other. If a man does not know right from wrong he reasons badly. If he is unable to restrain desires by the leash of thought, or by fear of consequences, again he reasons badly. If the ordinary motives have no influence over the mind of an individual, we say he is a fool, or he is mad. Now, there are very various ways in which a man may lose control over his actions. If you tickle the sole of a sensitive foot during sleep the leg is withdrawn by what is sometimes called "involuntary" retraction. If acts are repeated very often they become what is popularly called "second nature," that is to say, they become as involuntary as any of the actions which are performed during infancy, or as any of those habits which are the heritage of the race. Many actions in this way pass beyond the range of will or motives, for every act

* 'Utilitarianism,' 2nd edit., p. 57.

tends, by repetition, to become easier, and to pass out of the dominion of wilful choice into that of automatic origination. Every one knows the influence of habit. *Hamlet* says to his mother—

> "Refrain to night,
> And that shall lend a kind of easiness
> To the next abstinence; the next more easy,
> For use almost can change the stamp of nature."

One ethical philosopher has well said—"Do right, and trust to God to make it easy." So it is that many acts become so easy in the doing, require so little effort of consciousness, that they are said to be done unconsciously, or, in other words, out of the ordinary relation to thought in point of time. These acts we may call automatic or impulsive. The constant modified exercise of any of the muscles, will, in the time to come, tend to the same modified exercise under the influence of a comparatively insignificant exciting cause. And thus in all the manifestations of mind, whether they be connected with impressions on the senses, with the result of the processes of thought, or with one's actions as a moral agent, there is a liability to pass partially out of the power of will or motive—for we are using these two words in the same sense—a liability to recur under the influence of what would in time past have been an inadequate stimulus, and to become what may be called involuntary or impulsive. But this is much more speedily done under the influence of disease than in the conditions of health. The infinite variety of the actions that one is called upon, while in a healthy state, to perform, protects the individual from the effects that follow habitual action in one direction. But it can easily be understood that the presence of a delusion must greatly modify many of the relations of motives to conduct; and the same effects will be produced by the influence of unrestrained habit, or of hereditary tendency. So powerful is hereditary tendency that we may be said to inherit ready-made habits; so powerful is it that a father may weaken the power of will, or weaken those powers by which men judge of motives, in his offspring. It is stated as a fact that Oxford, the regicide, believed that he was St. Paul, and that his grandfather had done the same. An interesting example of an hereditary propensity to steal—which descended from a real thief, who could refrain from pilfering when paid to do so, to his son and grandson—is given in Dr. Julius Steman's very excellent work on

'Hereditary Disease,' and other examples of a similar tendency to the reproduction of morbid propensities will be found in Mr. F. Hill's 'Reports on Prisons.' We find voices, features, even acquired skill, modified by the past, so that the handwriting of one individual member of a family has in some cases been found to resemble that of some ancestor whose writing he had never had an opportunity of seeing. All this seems to us to explain what we mean by the "depraved impulse," as present in many cases of moral insanity, and what, in this relation, we understand by defective volition. That disease has the power of withdrawing certain acts from the influence of will, and that in many cases it so much incapacitates the individual as to place him so thoroughly under the influence of one set of motives as to make any action arising therefrom rapid and unhesitating, is, we believe, the only true explanation which can be given of those diseased impulses which find place in the minds of the insane; and we are further inclined to interpret the apparently motiveless character which belongs to such impulsive actions as, in truth, due to the strength of the motive to which they owe their existence.

In this life our course is not a clear one. Duty is often difficult to do. We have the choice of Hercules at every turning point of our life. The more one knows of the possibilities of the future, the more careful will one be in fashioning the actualities of the present. And Shakespeare says—

> "Rightly to be great
> Is not to stir without great argument."

It is to the ignorant that choice is easy: it is to the wise that choice is difficult. A child finds no difficulty in choosing between a bank-note and a lollypop, and from the impulsive way which it grasps at the latter, we think it is uninfluenced by motives, the fact being that it is influenced by the motives of actual enjoyment powerfully, and by those of remote contingency not at all. So it arises that an overwhelmingly powerful motive has, to the eyes of those who are in the habit of connecting choice of motives with struggle, the same appearance as no motive at all. Our idea of choice is the swaying of the scales, not the kicking of the beam by one of the scales; so that we have, in thought, connected actions which spring from a very strong motive with the expression "motiveless," because struggle, resistance, is the sign of humanity

in the hands of cause, while yielding is the sign of inanimate matter under similar circumstances.

We believe that this explanation of an "irresistible impulse" is conformable to all the circumstances which attend their manifestation, as far as they have been accurately observed; and we further believe that, with such an explanation as the above, courts of law would, in connection with the various cases, be satisfied of the existence of morbid impulses; and it would be admitted that persistency of criminal tendency, and the commission of criminal acts in spite of repeated punishments, and in spite of every human reason to believe that the connection between future acts of crime and punishment would be invariable—all point to the existence of disease. A few cases are added to show that the real ground for exempting from punishment has not been sufficiently understood, and to illustrate the phenomena of this disease.

"An only son of a weak and indulgent mother was encouraged in the gratification of every caprice and passion of which an untutored and violent temper was susceptible. The impetuosity of his disposition increased with his years. The money, with which he was lavishly supplied, removed every obstacle to the indulgence of his wild desires. Every instance of opposition roused him to acts of fury. He assailed his adversaries with the audacity of a savage, sought to reign by force, and was perpetually embroiled in disputes and quarrels. If a dog, a horse, or any other animal offended him, he instantly put it to death. If ever he went to a fête, or any other public meeting, he was sure to excite such tumults and quarrels as terminated in actual pugilistic encounters; and he generally left the scene with a bloody nose. This wayward youth, however, when unmoved by passion, possessed a perfectly sound judgment. When he became of age, he succeeded to the possession of an extensive domain. He proved himself fully competent to the management of his estate, as well as to the discharge of his relative duties, and he even distinguished himself by acts of beneficence and compassion. Wounds, law suits, and pecuniary compensations were generally the consequences of his unhappy propensity to quarrel. But an act of notoriety put an end to his career of violence. Enraged with a woman who had used offensive language to him, he precipitated her into a well. Prosecution was commenced against him; and on the deposition of a great many witnesses who gave evidence to his

furious deportment, he was condemned to perpetual confinement in the Bicêtre."* Although this case is recorded by Pinel, it seems to us anything but a satisfactory illustration of moral insanity; and it is somewhat strange that it has been quoted in that connection by some more recent writers on the subject. "Strong passions," seem to us all that is made out in the case just quoted; and if that plea is to open the door of a lunatic asylum instead of that of a prison, courts of law may shut their doors. That the strong passions were unrestrained in youth, that a defective education led to careless self-control, that the means of gratifying passions made them strong—just as in a country's economy, plentiful supply strengthens demand—that habit strengthened more and more what tendency had made in clay, seems all that can be gathered from the facts of this case. The same story might be told of many of those persons one meets each day and never excite a suspicion of insanity. We suspect that the money, of which he had much, and the domain, which was extensive, had something to do with his incarceration in the Bicêtre.

A case mentioned by Hoffbauer† better illustrates what we understand by moral mania. It is a well-known case, and we therefore content ourselves by referring to it. We epitomise a case given in an article upon the subject under consideration, in the 'Medical Mirror.'‡

W. R— was twenty-seven years of age. He had been eight times in the house of correction. His father was an epileptic, and he himself had been subject to convulsions when teething, and at intervals during his after-life. He tortured animals, picked out the eyes of a kitten with a fork. He lied and stole. He was expelled from school as too bad to be kept. He afterwards consorted with the worst characters, was drunken, debauched, dishonest. He attempted, or pretended, to commit suicide. He was utterly false and untrustworthy. He delighted in torturing those patients who were, like himself, confined in the lunatic asylum, and who were too weak to resent injury with violence. He was indelicate in the presence of females, and attempted a rape on his mother and on his sister. Yet, with all, he was intelligent, exceedingly cunning, and

* Pinel, 'Sur l'Aliénation Mentale,' p. 156, s. 159.

† Hoffbauer's 'Médecine Légale,' s. 126, p. 132.

‡ "Notes on Moral Insanity," 'Medical Mirror,' vol. iv, No xlviii.

while he was actually the victim of epileptic seizures, he was prone to feign fits, and did it with considerable ability. In spite of careful watching he repeatedly effected his escape. Was exceedingly vain; and, in the presence of some persons, seemed to be exceedingly devout. He was ingenious in excusing his errors; and, although exceedingly mischievous, was careful to avoid disagreeable consequences. All these facts indicate the presence of disease; and, we are inclined to believe, that the case above quoted is one in every respect typical of general moral mania; and yet it is not one in which, it seems to us, looking at the function of government as we have described it above, even the presence of this morbid state should protect from the consequences of criminal acts. In all the circumstances of the case we have partially described, two things are observable:—1. A fear of personal inconvenience, a dislike of ordinary punishments, and many of the ordinary motives of human nature—as, self-aggrandisement, sexual indulgence, the praise of those whose praise is ordinarily thought of value, personal vanity, and the like; and, 2. An intelligence of such a high order as to enable him thoroughly to understand the relation between a found-out crime and its punishment, for he invariably tried to conceal the commission of the criminal act by lies, hypocrisy, and various clever explanations. And either of those two conditions of health seems to us—where no uncontrollable impulse is proved—to indicate a fit object for punishment. And the writer of the article from which the case is quoted, evidently, although a medical man, tends to the same opinion, for he says,* "Humane and well-devised punishment must follow all their (the morally insane) misdemeanours; and they must be made to feel that, in certain matters, subjection to a dominant system is an inevitable necessity. The gradual formation of habit is, above all things, to be aimed at." It is quite evident that many such individuals exist amongst us, with a heritage, if not of actual disease, yet of accumulated crime, which is the clay in the hands of that potter, Time, of which insanity is made, who do not restrain their morbid impulses on account of the fear of punishment. But because the law has, by various punishments, failed to make a man honest, to regard him when he again steals as exempted from punishment on account of the number of his crimes—and because it has failed, to do damage to its declaration by rendering the connec-

* Page 739.

tion of crime and punishment less invariable, seems absurd. It is just because this consequent and antecedent are not invariably and inevitably connected that some men commit crime, and that those who have a tendency to commit crime through strong passions, habit, or disease, are not restrained. It is true, there are some insane persons whom an invariable sequence will not teach *the* lesson of life, and whom the pain which is the invariable consequent of violently striking one's head purposely against a stone wall, will not teach to refrain from that act. When such a state of mind exists, whether it arises from imbecility or mania—intellectual or moral—it is absurd to punish. In most of the cases of moral mania which have been brought under our notice, the tendency to sin is, doubtless, due to disease; but it is not so strong that an absolute certainty of proximate suffering could not restrain from the commission of the criminal act—indeed in many cases it is not stronger than the tendency which exists in those persons that circumstances have brought to sin, and that habit has made criminals; and as it is for the latter class that laws are enacted, it seems to us, the former class are co-heirs with them in the advantages to be derived from the infliction of punishment. Another case may be quoted to illustrate this position; it is a case "where, with great natural shrewdness, general information, and gentlemanly manners, where no delusion or incongruity of thought can be detected, there exists an inveterate desire to torment and irritate those around: to enjoy the dissension and disputes which ensue, and to violate every rule of decency and delicacy by obscenities of look, word, and action, *when these objects can be accomplished without detection.*"* We imagine that the case just quoted, and the following case, which we take from Prichard,† prove that in many of the relations of the morally insane to the State, they may, for all the purposes of just governmental discipline, be regarded as sane; and that, in many respects, those who are afflicted with moral insanity must be treated in the same way as those in whom we can only discover moral turpitude.

"Mr. H. P— had been for many years confined in a lunatic asylum, when, an estate having devolved upon him by inheritance, it became necessary to subject him anew to an investigation. He was examined by several physicians, who were unanimous in the opinion

* 'Crichton Institution Report' for 1850, p. 26.

† 'Cyclopædia of Practical Medicine, Art. Insanity,' p. 834.

that he was a lunatic; but a jury considered him to be of sound mind, attributing his peculiarities to eccentricity, and he was consequently set at liberty. The conduct of this individual was the most eccentric that can be imagined; he scarcely performed any action in the same manner as other men; and some of his habits, in which he obstinately persisted, were singularly filthy and disgusting. For every peculiar custom he had a quaint and often ludicrous reason to allege, which indicated a strong mixture of shrewdness and absurdity. It might have been barely possible to attribute all these peculiarities, as well as the morbid state of temper and affections, to singularity in natural character, and to the peculiar circumstances under which this person had been placed. But there was one conviction deeply fixed on his mind, which, though it might likewise be explained by the circumstances of his previous history, seemed to constitute an instance of maniacal delusion. Whenever any person, whom he understood to be a physician, attempted to feel his pulse, he recoiled with an expression of horror, and exclaimed, 'If you were to feel my pulse you would be lord paramount over me for the rest of my life.'" "The result has proved," this author goes on to say, "that confinement is not always necessary in cases of this description. Mr. H. P— has remained at liberty for many years, and his conduct, though extremely singular, has been without injury to himself or others."

This is one case, and many others might be collected in which an illiterate jury have, in spite of medical evidence, succeeded in doing the right thing; but it is also a case which shows how very frequently moral insanity is connected with intellectual delusion. Indeed, we are convinced that many observers have not—in their anxiety to prove the fact of a kind of insanity which exists independently of any prominent intellectual symptoms—been sufficiently careful to look for signs of the existence of that which they did not wish to see. Many people, like Nelson—when he was told that there was a signal from the Admiral's ship commanding his return—put the telescope to their blind eye, and say, "I cannot see anything." So Dr. Ray* quotes the case of the Earl Ferrers, who was executed in 1760† for the murder of his steward, in illustration of what he regards as moral insanity. Dr. Ray does not, in the

* 'Medical Jurisprudence of Insanity,' p. 119.

† See 'Hargrave's State Trials,' vol. x, p. 478.

description he gives of the condition of the accused—in which he asserts that the disease was in a more advanced condition—state that it was proved that his lordship was occasionally insane, and incapable, from his insanity, of knowing what he did, and of judging of the consequences of his actions. He laboured under the delusion that his relations and friends had formed a conspiracy against him, and he regarded Johnson, his victim, as an accomplice. His conduct was of such a character as to convince those who knew him of his insanity. That the verdict of guilty may have been erroneous, and that the sentence and execution may have been inexpedient, is true, but that the accused laboured under moral mania seems to us false. In another place we point out the relation of those afflicted with intellectual mania to the State; here we would—while we praise the caution of our courts of law in hesitating to recognise moral insanity, and point out that, from the rarity of cases in which this disease is unaccompanied by very prominent intellectual symptoms, very little injustice has been done, in consequence of the law's unwillingness to recognise this kind of insanity—censure the dogged persistence of lawyers who will not, even in the present state of medical psychology, and with the amount of evidence which has been accumulated, admit that there can, or ought to be, a recognition of such a form of disease by our criminal law.

CHAPTER VIII.

ON PARTIAL MORAL MANIA.

Although it is difficult to see how one set of mental operations, as, for instance, those which go to determine a difference between right and wrong, can be affected with disease while in all other respects the mind is sane; still it is a fact that a man's relations to external nature may be distorted in so far as one series or class of acts are concerned, while in other classes of acts or impressions those relations may be in a perfectly normal condition. A man may be blind without losing the use of his ears. But still it is not altogether correct to say that a man can be morally insane while at the same time he is intellectually normal. For, as what we know of mind is only thought, we cannot regard a mind which always thinks wrongly with respect to certain matters, although in other matters its process may be without error, as in its intellectual wholeness complete.

I now propose to consider a class of cases in which even a more limited species of acts is affected by disease—a class of cases in which only one or two of the social relations of the individual are interrupted by the presence of the abnormal conditions of brain. Although it is difficult to separate a man's feelings from his thoughts, it is not difficult to make a distinction between various desires or passions in relation to their objects. Thus, if we found morbidity only manifested in relation to the appropriative tendency in human nature, it would be reasonable, for the sake of convenience, to distinguish such a manifestation of disease from that in which the tendency to destroy one's own life was found to be the most prominent mental feature. It is really madness in relation to the same mind and thought, whether its symptom be stealing a handkerchief or cutting one's throat; but as there are different kinds of skill acquired by different parts of the body, so there are different propensities

acquired by mind. Skill is the direction of energy to the educated part, partial moral mania seems to be the direction of morbid energy, or energy manifest under abnormal circumstances, through certain tendencies of disposition. And the most convenient means of classification is presented by the similarity of the most prominent features or symptoms of the disease in different cases, as it is these features and their object that call attention to that part of the disposition which is primarily affected. The disposition is just the stereotyped edition of a man. While a man is young and under favorable circumstances, his tendencies are only movable types. If we say a man's disposition is good, it is that the circumstances of the past have biassed him—like a bowl—to run over this green world in a direction we think heavenward. This is disposition in the lump. But we all know how infinitely the various rooms of the house—disposition, so to speak—vary in different individuals. We find one man liking solitude and the great lessons it teaches, while another seems to enjoy his neighbour's elbows in his side as he is jostled in the market-place. One man has great ventures forth in the waves' hands, and prays that the wind may bring home his ships, and that his coffers may be at their golden flood tide. Another man lives in the shadow of great quiet hills, with nothing but books for friends, and would rather hear the babble of the streams than the chirp of all the coins in the world. One man imagines that

"To breathe is not to live,"

while another man thinks that "well fed" is the acme of happiness, and never to want, the highest perfection. It is the sum of all a man's tendencies to the external that we designate his "disposition;" and when we use such words as "miser," or "glutton," we mean to express, with as much exactness as one word can, the whole disposition of an individual. To say that a man whose disposition impels him to choose what is bad rather than what is good, is a bad man, and a stupid man, seems to be warranted by the dictionary meanings of words. We see many who choose the evil and eschew the good every day of their lives, and we see others who prefer the good of the spirit to the good of the body. But liberty is an excellent thing, and if we were all compelled by law upon all occasions to do well we would make the millenium a seven months' child—a consummation not to be desired. So we are all allowed to choose what is bad, if

we prefer it, so long as our choice neither directly nor indirectly tends to injure other people. When disposition would impel us to the choice of something which belongs to another and, when we appropriate the article to our own use, law steps in and, for the reason that it is convenient that folk should be able to possess without molestation what belongs to them, punishes us, in order to prevent the formation of such unsocial (in the wide sense) dispositions. Such is the principle of our law, and whether the disposition is a result of disease or not, so long as punishment is calculated to restrain, so long should it be had recourse to.

But it is true that a disposition may get too strong for a man. He may, even when the strongest reasons for refraining from a certain act exist (*e.g.* the presence of witnesses and the certainty of punishment), be unable to restrain his propensity. And where such a fact can be satisfactorily proved it seems to us, after careful consideration of the subject, that the individual should be held irresponsible for such acts.

Partial insanity, then, may, according to medical men, be traced to an abnormal increase of vital energy in any part of the mental organism, which will probably be manifested in an excessive activity of that state of consciousness with which the part affected is connected, or, what seems to us more probable, will in all likelihood manifest itself through those channels of mental life in which the greatest amount of mental energy has been wont to flow, or, in other words, be directed by the disposition of the individual. In relation with this statement it must be remembered that a man's disposition is not always an open book from which a runner might read, that it is not always formed by overt acts—although in many cases these are the scaffoldings of disposition—but is often built up in secret by the coral insects of thought. It must be remembered also that a disposition is not omnipotent, and that many wise men constantly act in direct opposition to the tendency of their nature; but where the true disposition can be ascertained it will, we imagine, be found the channel through which the excessive mental energy generated under the influence of disease will flow. It is true that not unfrequently the disease seems rather to change the character of the individual, and a man that was scrupulously honest before becomes a thief; a philanthropist, a persecutor. But these facts, the truth of which we admit, only bear out our statement, for it seems

to us a law of the manifestation of energy that its excessive flow under the influence of disease, through a channel in relation to which it is excessive, is productive of a result contrary to that which the ordinary healthy passage of energy would be expected to cause. If fifty people try to get through a doorway suited for the passage of one person at a time, not one gets exit, and that although the door is wide open and there are fifty persons wishing to get through. So it is with energy. As long as the disposition-channel—to make a phrase—is sufficient to allow the exercise, say of generosity, it manifests itself in good works; but when it has, owing to the excessive activity of mind, become too limited, there is a display of excessive meanness in all the actions of the individual, so that our assertion that it is the disposition of the individual that influences the manifestation, and gives a character to the symptoms, is borne out by facts.

In the following remarks upon partial moral insanity I shall attempt to describe—1, kleptomania; 2, erotomania; 3, oinomania; 4, pyromania—5, suicidal mania; and 6, homicidal mania; believing that these are at the present time the forms of disease which it is most important thoroughly to understand, and which it is the duty of those who write upon the medical jurisprudence of insanity most minutely to explain.

Kleptomania.—The idea of property, as we have it in our times, was not built in a day, any more than Rome was. That it has been built seems certain. In the first instance it may have been acquired from the undoubted possessory feeling a man has with regard to his own body. A man would recognise his hands as his own, and from that rudimentary notion of self-possession anything that could minister to the welfare of self would, in time, become associated with the idea of property. Food would probably be that with which this advanced idea of property would be connected. But the real development of the notion of "mine" must have arisen from the remembrance of some want in the past, and its satisfaction in a time nearer the present, and from a sufficient appreciation of the course of nature to believe that such a want might arise in the future, when its satisfaction might be difficult. The man who really first had property was he who thought, "I am not hungry just now, but I may be in time to come. I have more food than I can eat just now, and I may not have enough to eat in time to come." But he found out that it was necessary to remember where the food was; then he found

it necessary to hide the food and mark the place, so that he might find it again; and it was this fact of it being hidden that was the law that gave him the true feeling of ownership. But if food was "owned," and men began to think that possession gave a right to property, why should not the implements with which the food was procured be a subject of property? The hunter transferred the skin to his back or stretched it over a pole to shelter him, and so property increased. Then began the differences of the language of property. At first property in food only gave the pleasure of satisfaction of appetite, and then of taste; then when the hunter came for it again he had the satisfaction of feeling that by his ingenuity he had "earned his blessings," that he had done better than his neighbours by making the present live, as it were, on the past; then came pride in the shape of the instrument, in its ornamentation, in the glossy hide, in the antlers, in his house or wigwam, in the cleverness of his bartering exchanges, and in the stores he had laid up against the time to come. And so his feelings ramified, as it were, so the idea of property grew and strengthened, for feelings are strong in proportion to the number of actual or possible associated sensations. Then came money! and it was looked upon as valuable, not in proportion to the one real pleasure which it could procure, but as equal to all the possible pleasures which it might procure, and hence to be regarded as indefinitely advantageous. It is in this way that the present idea of property has been formed, and in this way has the moral condition of man been raised—first, by the enlargement of his sphere of activity; second, by the belief in the security of the future. The enlargement of the sphere of activity is of the utmost importance to humanity. It is good genuine work, be it with hand or head, that best forms character; and in order that a man may work he must believe in a future for which the present labour is providing comparative comfort. It is this anticipation of a future which is most characteristic of humanity, which best distinguishes man from the lower animals. Is it not this anticipation that opens the gate of heaven to us—is it not the hopes and fears which come with this expectation which make night hideous?—

> "And we fools of nature,
> So horribly to shake our disposition
> With thoughts beyond the reaches of our souls."

Is it not this that makes man bend his knee to Him who formed the past and the present and the future—a world that is ours just now, and a world that may be ours hereafter?

It is only the lower animals that live entirely in the present, and the present is always small. It is like a room, and humanity has made windows in its walls by which it surveys both the landscapes of eternity, while the brutes are content to live in the little close darkness of to-day. The present is great only because it can be made to contain glimpses of the past and of the future. Property, then, is possible only to those who have a future. It is something only in relation to time. But property must be respected by others than the proprietor, and in order that it may be respected it must be distinguishable. It must also be transferable, else property would be valuable only to a limited extent; and the transference of property must be safe, and ought in every country to be easy. And so from the rude beginning which we have described we arrive in time at a stage where there is a necessity for law, or "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong."*

It is unnecessary to go further into the question as to the formation of the idea of property, or of the means which have been taken to render the acquisition and the subsequent possession of property secure. Enough has been said above to enable us to explain the connection of the idea of property with certain diseased conditions which may be brought under the notice of the medical jurist.

After property has been acquired, after the municipal law has forbidden theft and prescribed penalties in case the established rights of property should be violated, many persons are still found to be stupid enough to attempt to deprive their neighbours of their goods by means of fraudulent taking. But there are others who, through the disordering effects of disease, fail to perceive the relation in which they stand to the property of another, who fail to perceive the real connection that exists between owner and goods, to the exclusion of other individuals, or, even while they do understand the whole gist of the idea of property and possession, are, from their inability to be

* "Law" is defined as "anything laid down, s. c., as a rule of action—a rule imposed, fixed, or established, decreed or determined."—'Richardson's Dic.' 1 'Blackstone's Commentaries,' p. 44.

influenced by ordinary motives, which are the points of humanity's compass, unable to refrain, from the mere pleasure which arises from the act of appropriation.

Very early in history we find instances of stupid hoarding under the influence of disease, and soon we find theft as a symptom of insanity. That avarice which sits

> "Upon a camell loaden all with gold:
> Two iron coffers hong on either side,
> With precious metal full as they might hold,
> And in his lap a heap of coin he told;
> For of his wicked pelf his god he made,
> And unto hell himself for money sold;
> Accursed usury was all his trade,
> And right and wrong in equall ballaunce waide,"

is compatible with health, in the ordinary sense of the word, may be true; but that such men as John Elwes, who at night was heard in his chamber as if struggling with some one, and saying, "I will keep my money, I will! Nobody shall rob me of my property," and who lived in wretched poverty, although he died worth £800,000; as Thomas Cooke, who never did a generous act, except dying and leaving £127,205 Three per Cent. Consolidated Bank Annuities for some one else to use; or as Daniel Dancer, the history of whose life and littleness is as well known as the story of his great wealth,* are in perfect health, in the truer and deeper sense of the word, we would emphatically deny. But the question of hoarding, save in so far as it is connected with theft, does not properly fall under our notice in this place.

Notwithstanding what some extreme thinkers say, we are compelled to believe that larceny, which is "a wrongful removal" (taking and carrying away) of the property of another, whether it be effected without consent or by consent obtained by intimidation or fraud, so as the owner consent not in the latter case to part with his entire right of property, but with the temporary possession only,† is not necessarily connected with insanity. But, at the same time, we must admit that theft may become a symptom of, and often is indulged in consequence of, morbid mental conditions.

No difficulty occurs where kleptomania, or the propensity to

* See Henry Wilson's 'Wonderful Characters,' vol. ii, p. 38.

† 'Cr. L. Com. 4th Rep.,' p. 50.

steal (using the word propensity in the meaning we have attached to it by our explanation of impulse and tendency), is only a symptom of well-marked mental disease. Thus, in the case of Renaud, which is quoted by Marc,* no difficulty could have arisen. The patient's ideas seem to have been very limited, indicating the existence of imbecility. The conclusion of the commissioners (MM. Denis and Marc) who examined him, was—"1. That his moral faculties were so feeble as to constitute a state of imbecility, which, however, did not preclude a certain degree of cunning when he delivered himself up to his propensity, or when he endeavoured to deny the acts which arose from it. 2. That it is exceedingly probable that Renaud experienced at times maniacal excitement, and it was especially in this exalted state that he twice attempted theft. 3. That in any case the mental condition of this individual did not appear to allow of the supposition that he had that degree of discernment and moral liberty which forms a necessary condition of criminality."

An interesting report on a case of mental derangement with kleptomania, by Dr. Max Mauthner, is printed in the second volume of the 'Medical Critic and Psychological Journal,' which, although it is too long to quote, throws some light on the subject under consideration. Prichard mentions a case in which the wife of a man of large fortune was in the habit of stealing upon all occasions when she visited shops for the purpose of purchasing. In this case paralysis and softening of the brain existed. So inveterate was the habit that the husband, as he could not shape his wife to do right in conformity with opportunities, tried to shape the opportunities to the disposition of his wife, and went to reside in the country.

The case of L. H—, who was confined in a lunatic asylum, and which has not as yet been reported, will further exemplify this class. She was extremely irritable upon certain occasions, but under ordinary circumstances was exceedingly morose. Her face was fixed in a "puckered" frown. She was, however, well educated, and could converse rationally upon many subjects. She was suspected of a morbid desire to acquire and hoard up, and upon a search being instituted fifteen bags were found concealed about her person. The number of articles contained in those fifteen bags (or those of them that were minutely examined) was 1182. Most of

* Marc, 'De la Folie,' vol. i, p. 170.

the articles were utterly worthless. We may mention some of them. There were 104 fragments of paper, 82 sewing needles, 18 gloves (mostly old), 12 moulds for wax leaves, 19 buttons (of various kinds), 60 feathers, 8 parcels of dried flowers, 4 pills, 3 fragments of dried fish, 138 fragments of ribbon, 9 bottles, 61 lozenges, &c. &c. In such cases, where the habitual theft is only a symptom of well-marked mental disease, little difficulty can arise. Where the individual who steals labours under a delusion, either that the property really belongs to him (as is very frequently the case when an individual labours under general paralysis in one of its stages), or that it has been stolen from him, and that he is only exercising the legal right of recaption, or that he has been commanded by God to take possession of certain articles, courts of law will not hold the individual responsible for his acts of theft, but will exempt him from the punishment declared by law. Such cases evidently fall within the rule of law stated in an earlier part of this work, viz. that if an accused person labour under "a partial delusion only, and is not in other respects insane, he must be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real."*

So far, then, there is no difficulty or uncertainty, but in those cases in which there is no other symptom of insanity except this diseased propensity to acquire property,—which is very frequently accompanied by the hoarding propensity, showing that it is intimately connected with the true primitive idea of property,—where the theft is the only sign of the presence of morbid conditions, the questions as to whether disease is the exciting cause of the larceny, and if so, whether it should be regarded as exempting the individual from punishment, are much more difficult of solution. That such cases do occur is certain.

A clergyman, who occupied a very excellent position in Edinburgh about forty years ago, who had distinguished himself by his learning and piety, and who, to use a "stock" phrase, was universally respected, was in the habit of stealing Bibles, and nothing but Bibles. He manifested no other symptom of insanity, and when questioned as to his conduct excused his acts on the ground that it was necessary to propagate the gospel. Well, it may not have been

* 'Broom's Commentaries,' p. 874, see 10 Clark and Finnelly, Reports 210, 211; Reg. *v.* Oxford, 9 Car. and P., 525, s. c., Townsend's St. Tr., vol. i, p. 110.

so mad an idea after all to think that theft of Bibles was calculated to do God service. How many people, sane enough withal, have attempted to propagate truth with a sword, as if human hearts needed to be ploughed before they would yield a harvest.*

"There are persons," says Dr. Rush, "who are moral in the highest degree as to certain duties, but who, nevertheless, live under the influence of some one vice. In one instance a woman was exemplary in her obedience to every command of the moral law except one—she could not refrain from stealing. What made this vice more remarkable was that she was in easy circumstances, and not addicted to extravagance in anything. Such was the propensity to this vice that, when she could lay her hands on nothing more valuable, she would often at the table of a friend fill her pockets secretly with bread. She both confessed and lamented her crime."†

A case has come under our own notice which has many features in common with that just quoted. Mr. M— was an individual of high rank. He was the owner of an excellent estate, and was as wealthy as most of his neighbours in the county in which he resided. He was never suspected of being insane, and the only evidence of mental unsoundness that could have been obtained was a confession upon the part of some of his servants that he was "sometimes peculiar." Yet this gentleman was in the habit of appropriating "towels." He invariably, when visiting or on a journey, packed the towels he found in his bedroom in his portmanteau. And when he returned home the stolen articles were, by *his own directions*, returned to their real owners.

Marc mentions the case of a young lady of rank who was addicted to stealing handkerchiefs, gloves, and the like. She mourned over her propensity, wept, repented, and stole again. There was no symptom of any impairment of intellect.‡ Victor Amadeus, King of Sardinia, was in the habit of stealing objects of little value.§ And an unpublished case has come under our notice where the propensity

* An interesting case of a book-stealer will be found in the 5th vol, 2nd series, of the 'Annales Médico-Psychologiques,' p. 666. Some cases of kleptomania will be found in the same journal, for April, 1855.

† 'Medical Inquiries and Observations,' vol. 1, p. 101.

‡ Marc, vol. ii, p. 254.

§ Marc, vol. ii, p. 254. See other cases in Marc, p. 355, 262, 264, 255; vol. i, 308.

to acquire by theft manifested itself only in relation to pins. The case mentioned by Prichard is well known, where the individual would not eat unless the food was stolen, so that his attendant had to humour his appetite by placing his food in a corner, where it seemed hidden, but could be purloined without difficulty.

These and many other cases which might be quoted * show that theft may be the only symptom of disease, for surely we are entitled to infer the presence of mental alienation in a case where the motives to theft are so obscure, so unlike those which ordinarily govern the actions of men, as to defy all predication of an individual's action from the ordinary experience of the conduct of mankind. That where a clergyman, who is in every other respect strictly conscientious, who is guided by an earnest desire to comply with the commands of a strict code of duty, steals Bibles, and nothing but Bibles, when he steals them with a view to disseminate religious doctrines, one of the most imperative of which is "Thou shalt not steal," that we should regard such a person as insane with respect to that act seems to us a necessary consequence of thought. That a gentleman of rank and fortune should steal linen from his friends and hotel-keepers, and that subsequent to the theft he should command their return, seems to us sufficient evidence of morbid mental conditions. The relation of such individuals to the civil and criminal law of the country in which they reside is a question which will be considered in a subsequent chapter, and the answer to which may be surmised from what has already been said. But in the mean time we are considering whether there is a marked condition of mind which in its relation to circumstances manifests itself solely in connection with the idea of property, and we are of opinion that the cases quoted above, and those which have been referred to, prove that such is the fact. To show that it may exist as a premonitory symptom of a more serious disease, we may mention the case given by Fodère.† It is that of a servant in his own family, who could not help secretly stealing from himself and others articles even of trifling value. She was, at the same time, modest, intelligent, and religious, and was aware that she did wrong. He placed her in

* Several cases given in Gall 'On the Functions of the Brain,' vol. iv, p. 140.

† Traité de Médecine Légale,' f. i, p. 237. Quoted in 'Ray's Medical Jurisprudence,' p. 129.

an hospital, considering her insane, and after apparent restoration and a long trial he again took her into his service. Gradually, in spite of herself, the instinct again mastered her, and in the midst of an incessant struggle between her vicious propensity on the one hand and a conscientious horror of her condition on the other, she was suddenly attacked with mania, and died in one of its paroxysms.

A similar case is mentioned by Morel.* "I was once able to establish the non-responsibility of a patient who had stolen in church the ornaments and the most insignificant objects of ceremonial, and who presented no other symptom of disease than a marked state of congestion, great self-content, and a silly laugh; the patient had no delusion, there was only a great intellectual weakness and the most complete indifference as to the fate which justice would award; only three or four months after his acquittal an attack of acute mania with delirium of grandeur, trembling of the tongue, and other symptoms of progressive paralysis, justified my prognostic." And a case is given by Prichard of a gentleman of fortune who resided at Scarborough, and who, amongst other peculiarities, was in the habit of stealing any articles of no value to him, and making little use of them afterwards, who died of general paralysis.

Yet it is necessary clearly to distinguish between such cases and between thefts properly so called. We are far from admitting that every one who steals is a kleptomaniac; we do not even go so far as to assert that every kleptomaniac should be held irresponsible for his thefts; and we assert that in all cases where theft is the sole symptom of the disease the individual should be held, in every respect, responsible for the commission of every other crime except that of larceny.

Several rules may, however, be given for the detection of real disease as the exciting cause of the criminal act. We would caution medical men and other persons who have to deal with such questions from paying too great attention to the existence of some stupidity in the execution of the crime in question as a proof of the existence of insanity. This is too frequently done. People have got into a habit of using the word "insane" upon occasions which are far from being sufficiently adequate to warrant its use. Folk say of a neighbour, if he does some act which they consider foolish, "He must be mad."

* 'Traité des Maladies Mentales,' p. 410.

And from this somewhat wholesale importation of the word into ordinary use the meaning has become somewhat less definite. Because a man leaves a knife with his name upon it lying beside the victim's throat that it has just cut, all the people cry, he is insane. Because a man who murders his neighbour appropriates his clothes, and within a few days after the commission of the offence pawns the dead man's property, every self-constituted judge pronounces the man quite mad. Is it not the fact that, unless the criminal did some foolish thing, the commission of the deed never would have been associated in thought with him? Is it not a fact that all the inmates of our prisons indulge, not in repentance of the crimes for which they are incarcerated, but constantly regret some little bungled circumstance in connection with the act on account of which they are undergoing sentence?—not saying, "Would I had never done the deed," as a true man ought to say; but saying, "If I had not left the door open, if I had not dropped my hat, if that man had not heard his screams." But are such circumstances to be taken as a proof of the existence of insanity? There are very few who are not blinded by the rules of what they think a science, who would advance such a proposition. Neither is the association with the crime of one or two unusual circumstances to be regarded as an indication of insanity. An individual of the name of Campbell, who resided in a northern town a good many years ago, was proved to have stolen various articles. It was also proved that the articles had been stolen with the view of supporting a mother, who was entirely dependent upon the exertions of the accused; and, further, it was ascertained that upon one occasion, when crossing the churchyard in the dreary dark of a winter nightfall, while upon his way to commit one of the crimes with which he was charged, and being wholly unconscious that he was observed, he knelt down and prayed earnestly for a blessing on his undertaking. Sympathy was excited —the man stole for his mother, and he prayed to God to bless him while stealing—he must be mad! But, nevertheless, Campbell was hanged. And although the punishment by death for the crime of theft seems to be unwarranted by any law of God, of nature, or of expediency, which ought to guide a legislature, it seems to us that the exemption of the accused from all punishment upon the ground of insanity, as proved by the facts above stated, would have been ill-advised. Many individuals day and night use this great engine,

prayer—the lever of the moral world—to hoist them up in the social world. Many people pray night and morning for Heaven's blessing upon acts which every Balaam prophet of our time has declared shall be cursed. What a marvellous revelation it would be if the thoughts that run through men's heads, or well over their lips, when they are on their knees, were made known. Surely a man with a mistaken idea of morality is not to be thought mad. A man who thinks that the end will justify the means, and who prays that the means may be blessed because the end is worthy of God's blessing, is not to be looked upon as a dement. Neither is it well to decide the question of insanity or crime, as taken in connection with theft, simply upon the fact that the individual has only been in the habit of appropriating one kind of article. When such is the case the question ought to be considered in relation to the individual's capability, so far as opportunities went, to steal any other kind of articles. An old woman, Nickie Frizzel by name, lived in the castle-crowned town of Stirling some fifty years ago. Boys, whose imaginations helped to the conclusion that a crutch and nut-cracker jaws were the truest attributes of a witch, looked upon her as "ower grit wi' the diel." But even friends of the devil must die, and Nickie Frizzel paid her little debt of nature when it was overdue by some years. She died, and her house was searched. Many articles were found in her possession which had come into it by the back door of theft, and not by the front door of purchase. But the fact which excited most curiosity was the discovery of a washing-tub full of "peries," or peg-tops, which had, it was surmised, been stolen from the boys as she passed on her daily rambles. No wonder they thought her a witch! But the discovery of all these peg-tops does not convince us that Nickie Frizzel was *non compos*. But instead of saying at length who ought not to be looked upon as mad, even though they steal, we had, perhaps, better say who ought to be considered as of unsound mind under such circumstances. The positive is generally a shorter road than the negative in such cases.

1. The means, the position, the rank of the individual, should be taken into consideration. We know that poverty and want are, under ordinary circumstances, incentives to procure food or money in the most accessible way, which for the poor is not unfrequently by theft. If hunger gnaws a man it would be a severe moralist who would censure the appropriation of food. Man seems to have a sort

of right to live, as much as he can have a right, when standing in God's presence; and when that right is menaced by undermining hunger there is at least some excuse for theft. But the law is to prevent theft, and the law properly looks upon want as the most powerful incentive to honest work, and not to dishonest pilfering. Although it should always lead to industry, and not to dishonesty, it does not always do so. The temptation to steal is great. It is so easy, and does not look very wrong; the man you take from has enough and to spare, and you well-nigh perish with hunger. Thus it is that poverty is a real inducement to commit crime. Sad though it be, it is true! Now, if we find a man of wealth appropriating to himself some article that, in comparison to his means, is of little value, we are surely warranted in supposing that his motive is somewhat different from that of the man to whom the same article or sum of money would be, as it were, life and that "chance" which opens the world's door to man. It is certain that motive is to be judged as much by the position of the person wishing, as by the object wished for. What is a crust of bread after a good dinner?—what is it *not* after a long fast? So we say that the position and means of the individual suspected of labouring under kleptomania are to be carefully considered. And not only his social position, but that "position" which is his entire relation to the external world. An old copper coin, utterly valueless to anybody except to a boy, who might take it to play buttons with, would, in the eyes of an antiquary, be, as it were, the nucleus of a hundred pleasant feelings, and in that way have value in his eyes. For, as Shakespeare says,*—

"What is ought, but as 'tis valued?"

In this wide sense of the word position, a man's rank, his circumstances at the time, his relations to the individual stolen from or to any individual who might possibly be suspected of the theft, the circumstances of the theft—for the manifestation of cleverness or skill in the perpetration may be a perfectly healthy motive inducing to the crime—must all be considered. But if, as in one of the above-mentioned cases, an individual steals towels, and no ordinary motive likely to influence him individually or a healthy person circumstanced as he is, can be discovered, there is a strong probability that the individual stole in consequence of disease.

* Troilus and Cressida.

2. The value of the article taken should be ascertained. In many cases of true kleptomania the value of the article stolen does not seem to be of much importance. To the true thief the value is all important. Before going further, we would say that these tests altogether form a net which will catch the thief and allow the insane to go. Not one of these will alone be sufficient to decide the question of sanity or insanity, and in many instances they may altogether fail. With regard to the value, the case* of the lady who only took pins and concealed them in the hem of her dress is certainly illustrative. And we may refer the readers to the case of L. H—, mentioned in an earlier part of this work, and to the case of the lady who stole bread, which we quoted on the authority of Dr. Rush, as further showing that in very many cases the mere morbid desire to become possessed of something is so strong as to make the choice of the article according to the ordinary standard of value a matter of no importance. It is strange that the morbid desire to acquire should in many cases be limited so as to operate only in relation to one class of objects. But we generally find, if we choose to seek, the type of the same law in the manifestations of disease that are to be found in the actions which are the ordinary outcome of a state of health. Men's desires always "clot," as it were. They live in the light of gratification and they grow to that light. Men's desires have to be cut by the cloth the world gives them, and resignation is the obsequy of desire. We have to go without many things we want, and the inevitable is a good argument against our beating ourselves against the immovable bars. But education and birth, and all a man's circumstances, shape a man's desires until his mind is like an island with many long peninsulas running from it, one seeking the south with its summer and flowers, the other the north with its fierce winds and dreary snows. Men's minds, in so far as desire is concerned, differ infinitely. One man wants fame, another money, another love. One longs for a life in town, another for a life in the country. And so, as we narrow the sphere, one man will read no books that have not to do with the absolute, while another will read nothing but tales of how bad people were converted and turned out of the broad path into the narrow one. One man will have nothing but diaper-patterns for his carpet, while another glories to be walking over worsted flowers and ferns. If such limitations are

* 'Reports Crichton Institution.'

compatible with health, we should expect in many cases to find still narrower pursuits under the influence of disease. If men who have the means of collecting many things concerning which human interest might be felt, devote themselves to the collection of postage stamps, why should we wonder that others, under the influence of disease, while the propensity to thieve gives them the means of obtaining many things, the possession of which is fraught with pleasure, should have all their energies directed to the acquisition of pins or table-cloths ?*

3. The precautions taken by the individual will occasionally throw light upon the question as to whether disease is present or not. Some kleptomaniacs steal openly. They make no attempt at concealment. But cases do occur where much ingenuity is manifested upon the part of the individual to conceal the act from the knowledge of others. The occasions of the theft will have some bearing on the question in connection with the history of the individual, the probability of insanity as judging from the existence or non-existence of predisposing and exciting causes.† Gall met with four examples of women who when pregnant stole, or were impelled to steal, and who were perfectly honest at other times. The precautions taken to avoid suspicion are, however, often indicative of the presence rather of moral turpitude than of moral insanity.

4. Very frequently the kleptomaniac is not unwilling to avow the act. Many confess that they know that what they are doing is wrong, but say that they have a mad longing to possess themselves of everything they see.‡ Some plead inability to resist the temptation to steal when they see certain articles, and make no attempt at denial. And in connection with such confessions, we may often find the individual restoring the stolen goods to the real owner. When such restitution takes place without the presence of motives which would influence an ordinary man, such as probability of detection or the like, it is very strong corroborative evidence of the hypothesis that the

* Marc, vol. ii, p. 355, mentions the case of a medical man whose kleptomania was manifested in stealing table-cloths and nothing else.

† Evidence as to the hereditary character of the disease which is in question, so long as the evidence refers to those lineally connected with the supposed lunatic, is admissible in England. Frere *v.* Peacocke, 3 Curt. 670; R. *v.* Ross Tuckett, 4 Law, 750. See, however, Doc. de Mather *v.* Lightfoot, 8 C. and P., 270; M'Adam *v.* Walker, 1 Dow. 179; but such evidence is inadmissible in Scotland. Gibson, 23rd December, 1844; 2 Brome, 332.

‡ Marc, vol. i, pp. 275—303.

original taking was due to disease. The number of thefts, the conduct, and the circumstances of the individual upon each occasion, ought not to be disregarded in the consideration of any case.

5. With regard to the conduct of the individual subsequent to the acquisition of the stolen article, the assertion that in many cases they make no manner of use of the property acquired may be taken as a rule. Kleptomaniacs very frequently seem to find the satisfaction of their morbid desires in the simple act of taking, and often throw away or disregard the article when actually possessed of it. In this they resemble children. The love of acquiring in the young outruns the knowledge of how to utilise an article when acquired. And so it is with many lunatics. When the article is not cast away or disregarded by the kleptomaniac, it will almost invariably be hoarded. And when neither of these courses of action are taken, but the individual proceeds to use it as it ought to be used, proceeds to derive the pleasure from it it was meant to minister, there is some cause to be careful in believing in the existence of kleptomania. Another circumstance which will assist the medical jurist in deciding whether the act belongs to the category of crime or disease is the existence or the non-existence of conspiracy, or a plan between the kleptomaniac and another person to steal together. Such a conspiracy to steal is common among sane persons, but does not exist amongst insane persons as a symptom of their insanity. There was once an idea that the insane could not combine to do any act, that they could not conspire together for good or evil. We believe, however, that such an idea is not borne out by the facts, and that insane persons do conspire to do certain acts, but *quoad* those acts they are sane, and for those acts they ought to be held responsible.

6. A curious fact has been observed in connection with the diseased propensity to acquire, viz. that in many instances it is felt only in relation to bright or glittering objects. People steal things that glitter. This rule is, however, by no means invariable. The analogue of such a propensity is to be found in certain birds. Every one knows the old story of the maid and the magpie—how the bird took the spoon, and the maid was suspected of theft. And few persons have not laughed over Ingoldsby's "Little Jackdaw of Rheims." We suspect that the individual who took and retained common pins must have had the diseased desire for the brightness. And in a very instructive case mentioned by Casper, to which we

shall again have occasion to refer, the lady during her pregnancy had an irresistible desire to possess shining objects, especially those of new silver. Other cases of the same kind might be mentioned. We need not again call attention to the fact that the history of the case must be carefully considered. Cases are on record where moral insanity has been ascribed to the injury of the head by the instruments which were used in the accouchement. And in the 'Journal de Paris,' March 29th, 1816 (it is a case often quoted), the following paragraph appeared:—"An ex-commissioner of police at Toulouse Beau-Consiel has been condemned to eight years' confinement and hard labour and to the pillory, for having while in office stolen some pieces of plate from an inn. The accused persisted to the last in an odd kind of defence; he did not deny the crime, but attributed it to mental derangement produced by wounds he had received at Marseilles in 1815."

We will only in this place add a very few words. Kleptomania is by no means common. The 'Times' upon one occasion said, "Every one who is acquainted with London society could at once furnish a dozen names of ladies who have been notorious for abstracting articles of trifling value from the shops where they habitually dealt." This, it appears to us, is an exaggeration. However, that there are true cases of theft madness, in which neither delusion nor imbecility is connected with the desire to acquire, we are bound to admit. And the question for us here is, how are such persons to be dealt with when they come before our criminal courts? And we have only again to repeat the recommendation that, if the individual is charged with any other crime than theft, the insane propensity to steal should not be regarded as a bar to punishment. It may be said that incarceration in a prison may aggravate the disease under which they labour, and it may be so, but that ought to make such individuals more careful not to commit such acts as may bring them into circumstances not compatible with health. If the individual is charged with theft, and it can be shown that he was in a condition to be deterred by the fear of punishment; if, for instance, it is shown that it was the advantageous circumstances which tempted him to commit the crime; if he can be shown to be, even with regard to his diseased propensity, under the influence of ordinary motives, he ought to be held responsible for his acts. If, on the other hand, he is not in a position to weigh motives, and if his in-

capacity is due to disease, if no ordinary circumstances induced to the theft, as no ordinary circumstances could have restrained him from its commission, he ought to be regarded as irresponsible, and ought to be exempted from any punishment.

The case above alluded to as reported by Casper will be of some importance in this connection.

Madame de X— had committed thefts in three goldsmiths' shops during her pregnancy. She had after her accouchement confessed to her husband that she had during her pregnancy had an irresistible desire to possess herself of shining objects. She confessed to having taken objects from shops, and declared that on one occasion when she went to return the goods she had been restrained from so doing by the belief that the articles were her own. Much evidence was given which went to prove the existence of mental aberration. Casper was referred to, and he concluded that the diseased propensity of Madame de X— was not irresistible, that she had not been compelled to commit the three thefts in spite of herself, and they were criminal actions for which she was responsible, and he gave as reasons :—1. That although the accused had besought her husband not to take her to those places where shining objects were to be seen, she went to goldsmiths' shops of her own accord, and without any necessity for so doing. 2. That she paid away silver. 3. That she broke up the objects she stole in order that they might not be recognised and in that way lead to her detection. 4. She had not gone to the same goldsmith's shop twice. 5. She had concealed her conduct from her husband. 6. And when she was interrogated had made many false and contradictory statements. Looking at all the circumstances of the case, we cannot but think that the medical jurist's decision was in accordance with sound principles of law and medicine.

Erotomania.—The passion which unites the sexes is not a simple feeling, but "compounded of many simples," like Jaques' melancholy. The purely physical elements of love are, as it were, its raw material, or rather the foundation-stone of the lofty house love builds and man dwells in. The admiration of personal charms, beauty the more imaginative, and handsomeness the more animal, excellence of human form, grows about the physical feelings as lichens do about rocks. Then comes the higher friendship,—the sentiments of respect, affection, reverence. The grateful flutter of

feeling when one is an object of paramount interest to another—the idea of ownership, and such ownership! How proud men are of a pretty wife! Then comes the mortar of mutual confidences, of shared knowledge, of common secrets. Custom binds men and women together even when other things fail. The feelings of power, of protecting and being protected, of legal rights, all cluster round this shrine of physical love. The more the stem is hidden beneath its leaves the purer is the love. The man who gratifies his passion for actual physical enjoyment, who has no care for the welfare of the woman who is instrumental to his pleasure, who feels no friendship for her, who experiences none of the better and purer feelings which ought to be associated with love, who has no care for the thoughts or sentiments which may be part of her life, is less of a man and more of an animal than most of his fellows. He indulges in a vice which morality has set its canon against, although it has not seemed expedient to the legislature to regard it as a crime.

There may be such an exaltation of the sexual passion as to amount to disease. We have seen that disease may manifest itself through any of the many series of relations that a man bears to his external environment. And it is important for the medical jurist to recognise this specific form of disease with reference to the deprivation of liberty which must in so many cases take place. Erotomania proper is to be distinguished from nymphomania and satyriasis, and may be defined as an excessive love for a real or imaginary individual of the other sex. It may and often does occur in connection with mental disease which is manifested by many other prominent symptoms, but occasionally the love-symptoms are the only indications of insanity. The insanity in such a case is not to be traced to any physical disorder, but to serious and indulged-in misapprehensions as to the feelings and sentiments of others. "The subjects of erotomania," remarks Esquirol, "never pass the limits of propriety; they remain chaste." On the other hand, nymphomania and satyriasis are characterised by an entire absence of any of the higher or purer feelings of healthy love, and give rise to the most obscene proposals, and to acts of the most disgusting and shameful description. Yet it is to be remembered that, although we thus distinguish erotomania from nymphomania and satyriasis, we must not always expect to find them thus clearly marked out from one another in nature,—indeed, they are most frequently found to coexist.

Although nymphomania and satyriasis originate in the organs of reproduction, we very often find such departures from all the rules of propriety as would, according to the description of Esquirol, lead us to believe that the individual's conduct was not due to the less virulent erotomania, and yet we are unable to trace it in its origin to any disease of the reproductive organs. We have, therefore, used erotomania as the general term, and would distinguish erotomania as described by Esquirol, and nymphomania (or uteromania), and satyriasis as the three forms, or (looking upon the last two as one) as the two forms of this disease.

In erotomania there is almost invariably great depression of vital energy; it is one of the most direct roads to dementia. Disease of the cerebellum has been suggested as the chief cause of this disease. In most cases there is evident deterioration of the intellectual faculties, although in others there is little or no connection traceable between the insanity and the ordinary reasoning faculties. As illustrating this statement, we may quote the following case:—"A young man, previously of most respectable character, became subject to severe epileptic fits, which were the prelude to attacks of violent mania, lasting, as it generally happens in this form of disease, but a few days, and recurring at uncertain intervals. These complaints after a time disappeared in a great measure, but they left the individual excessively irritable in temper, irascible and impetuous, liable to sudden bursts of anger and rage, during which he became dangerous to persons who were near him. Of symptoms of this description a state approximating to the satyriasis of medical writers is no unusual accompaniment, but in the present instance the diseased propensities of the individual were displayed in such a manner as to render confinement in a lunatic asylum the only preservative against criminal accusations."*

As illustrating the form of erotomania, which is characterised simply by excessive love to a real or imaginary individual, and as showing how any of the associated sentiments may manifest themselves in connection with this morbid emotional affection, we may quote from a paper in the 'Journal of Mental Science.' The writer says it is "generally displayed (in asylums) by careful and studied toilets and bedeckings with supposed fineries, and, as usual, is best marked amongst the females. It is often manifested at the sight of

* Prichard, 'Treatise on Insanity,' p. 25.

any one of the opposite sex indiscriminately, when languishing glances, smiles, and unmistakeable fondness are displayed. Or, again, they are more capricious, praising in exaggerated strains the goodness of, and their devotion to, the object of their affection; and they are versatile and flighty withal. So intense and engrossing does the ailment become in some instances that the patient lapses into dementia from excessive nervous exhaustion. One lady is never done talking of honorable marriage, and the husband she ought to have had if she had been permitted to remain outside, away from the parties that administer chloroform and ether to her. In her case there is hyperæsthesia of the emotions, and her impassioned entreaties, tears, and seizing of the hand betray the ardour of her attachment. Another openly beseeches the object of her attraction to marry her, and is never tired conversing with her companions about him, planning the most extraordinary means to assist her in accomplishing her end, and jealous of every slight attention paid to other than herself. She openly watches him on every available opportunity, and the same anxious form is seen peering from a window over the exercise ground where her fancied lover is. Her whole soul is wrapt in the one all-powerful passion. Yet she is for the most part candid, and not given to any secret abuse."*

A tendency similar to that described in the above quotation has been observed by ourselves in old people whose health was not impaired. And we remember one old lady who changed her lodgings repeatedly because she thought that she was followed by an amorous youth, and strict virtue even at the age of eighty advised her to fly from temptation. She was under the impression that cabmen pinched her hands—as only a woman's hand can be pinched by a man—when she gave them their fare, and believed that her ankles were universally admired by males who did not hesitate to express their opinions as to their excellence. Although over eighty years of age, she never would walk out alone. And yet this individual was to all intents and purposes sane. She had never been married.

But we turn to the more serious form of this disease,—the lewdness which fills man—

> "With reproachfull pain
> Of that foule evill which all men reprove,
> That rotts the marrow and consumes the brain;"

* "On some Varieties of Morbid Impulse, and Perverted Impulse," by W. C. McIntosh, 'Jour. of Mental Science,' January, 1866.

which manifests all the most degraded propensities. Cases often occur in which an intense desire for sexual congress is openly expressed, or in which the patient, being a woman, frequently exposes herself in the presence of males. Cases of self-abuse are by no means uncommon, and the general debility which masturbation directly produces operates most injuriously on the nervous system and the brain. Patients labouring under dementia are constant in the practice of masturbation, and seem to have no shame connected with the discovery of the habit.

Many cases of erotomania are on record.* We will only quote one. "A very intelligent lady was tormented from infancy with the most inordinate desires. Her excellent education alone saved her from the rash indulgences to which her temperament so violently urged her. Arrived at maturity she abandoned herself to the gratification of her desires, but this only increased their intensity. Frequently she saw herself on the verge of madness, and, in despair, she left her house and the city, and took refuge with her mother, who resided in the country, where the absence of objects to excite desire, the greater severity of manners, and the culture of a garden prevented the explosion of the disease. After having changed her residence for that of a large city, she was after a while threatened with a relapse, and again she took refuge with her mother. On her return to Paris she came to me (it is Gall who speaks) and complained like a woman in perfect despair. "Everywhere," she exclaimed, "I see nothing but the most lascivious images; the demon of lust unremittedly pursues me at the table and even in my sleep. I am an object of disgust to myself, and feel that I can no longer escape either madness or death."†

This disease is more frequent amongst women than men, and amongst the unmarried than the married. In many cases it can be traced to disordered menstruation. With regard to the season at which those diseases are most prevalent, nothing is definitely known, although from analogy we should expect that it will probably be discovered that the warming spring time is the most unfavorable, in

* See Esquirol 'Malad. Ment.,' vol. ii, pp. 32, 49; 'Annales Hygiène Publique et de Méd. Leg.,' tom. iii, p. 198. See also Marc., vol. i, p. 209; Bayard on 'Uteromania;' and Tuke and Bucknill, 'Psy. Med.'

† See, for this and other cases, Gall. 'Sur les Functions du Cerveau,' t. iii, p. 318.

so far as season and climate predispose to this disease. Erotomania is very frequently combined with hysteria. One case in which an insatiable sexual appetite was present came under the notice of a medical man, in which it had in its earlier stages been complicated with hysteria, and had passed into inveterate self-abuse. So far as he could discover, no intellectual symptoms manifested themselves in this case.

Oinomania.—The question as to the existence of a diseased condition which indicates its presence by intemperance and inebriety has become all the easier of solution since we have become cognizant of some of the facts which go to establish the belief in the existence of the kindred diseases just considered. Indeed it would be illogical to admit that, although a certain class of acts might be a symptom of insanity, for example, that pilfering might be regarded in that light, still to assert that another class of acts could not, under any circumstances, be the equivalent indications of morbid mental conditions. We know how constantly intemperance is the only cause of insanity, and we have here to consider whether it may not under certain circumstances be looked upon as the only symptom of insanity. We have already seen how men may by habit incapacitate themselves from exercising the ordinary human freedom of choice. Such individuals are, when they have lost the power of choice in relation to the pleasures derived from excessive use of spirituous liquors, properly called habitual drunkards. But it would, it appears to us, be utterly absurd to regard such persons as, in consequence of their habit, insane. They may, and often do, become insane in consequence of a constantly-indulged craving for stimulants, but that the fact of the existence of such a craving should be looked upon as a conclusive proof of the existence of insanity is an unwarranted assumption. Who that has "made a night of it" has not felt the craving for stimulants upon the morning following? and is the dry mouth, the hot thirst, the headachy giddiness, and the wish for brandy and soda to be looked upon as satisfactory evidence of a diseased impulse? You say, "No, it is not a habit; but when it is a habit a man is a child in its hand, and therefore irresponsible and mad." And when does this habit become so strong, and who shall decide that for us? Is it after ten or fifty debauches? And are we to allow habit to be pleaded in proof of insanity? If so, a man whose virtue has grown easy with wear,—a man who has a habit of saying his prayers night

and morning, and does not like to go without these religious gymnastics with dumb-bell sins,—the man who has an irresistible desire for a cup of coffee after his dinner—these men are not sane! But our true guide must not be the simple existence of a habit which has been made by indulgence; such a habit can be unmade by a reverse process. If a man willingly and knowingly forms a habit, he is liable to the consequences of having done so, just as the man who opened the door of the cage of the lion that killed the man is guilty of murder. Simple habit must not of itself protect. But if the man did not start fair, if we may so say,—if mental delusion, weakness, or disease deprived him of his power of choice, and if we can say that, but for the presence of those morbid conditions, the habit never would have been formed, there would then be some reason for looking upon excessive intemperance as due to mental disease. The psychological history of the case will always enable us to come to some conclusion as to this important question. There is some reason for pausing before we pronounce upon the viciousness of the indulgence of a man's propensity if we discover that his father died in a lunatic asylum. Where the history of the genesis of the symptom is not that which it would be in the case of a mere habit, there is another reason for care in our examination. Oinomania not unfrequently appears under circumstances which negative the hypothesis of habitual drunkenness; as, for example, in early youth or in old age, after a life of trials withstood, after a life of temperance and sobriety. Dr. Christison lays it down "as a practical rule for both lawyer and physician that when in a particular case the avidity for strong liquors has reached such a height as (1) to cease to be controllable by every plain and powerful moral and religious consideration, (2) to overwhelm the mind in frequent or continued intoxication, and (3) to occasion danger or actual damage to one's affairs or family, or both, it ought to be regarded as a disease, and treated as an insanity." This is, on the whole, a good practical rule. We know that no physician who has had any experience would now deny that there is a morbid impulse to drink, just as there is, as we shall hereafter see, a morbid tendency to self-destruction; and it is our duty to consider the various forms that it may assume, and the various circumstances under which it is most likely to arise. It may be (1) acute, (2) periodic or recurrent, (3) chronic.

I. *Acute dipsomania* ought scarcely to be regarded as a kind of dipsomania at all. It arises where it is only the most ready excess that the individual has an opportunity to indulge. Men who have found out the "world's villiany"—men who have learned that "moth and rust do corrupt" the treasures we have stored in our homes and our hearts—men for whom of a sudden the world, and flesh, and devil, which the lawyers, doctors, and clergy try to protect us from, have proved too strong—drink, glad to lose the dire reality of to-day in the reeling dreams of drunken sleep. Such men would, ostrich-like, plunge their head into any ambush vice, and hide the world and forget the pursuit. But such excuses ought not, it appears to us, to be regarded as due to the influence of disease. And it is only out of respect to the authorities which have mentioned it as one form of dipsomania that we have alluded to it in this place.

II. *Periodic or recurrent oinomania* is not unfrequently found in individuals who have suffered from injuries to the head, and sometimes in women during pregnancy. It is to be observed that in many cases the relation of the individual to the stimulants is peculiar, in so far as the quantity of the stimulant is related to the extent of the result. In some cases, owing to constitutional idiosyncrasies of the individual, a very small quantity of alcohol has an effect utterly disproportioned to the cause, if we judge of the proportionate relation from an ordinary experience of mankind. In such cases, although a strict moral code would enforce entire abstinence, a somewhat lenient mercy might find an excuse for some occasional excesses. It is sometimes found that this sensitive liability to be affected by stimulants is associated with the form of dipsomania at present under consideration. The recurrent or periodic form has very often a family tree of disease. We are all proud if we can trace our name back for a century or two. Old blood is thought a grand thing, but what can trace back its family like disease? When William came over, it was with him, but it was here too. It fought on both sides. Where Adam was, it was. Its first ancestor may have been the British cholera that Adam and his wife had after eating those very unripe apples! This form of oinomania comes, as its name indicates, in paroxysms. For weeks or months the individual may be entirely free from any tendency to exceed, or may even abstain with loathing from all forms of stimulants. Yet, upon that

account it is not to be confounded with the occasional fall of a quasi-virtuous man, whose citadel-will holds out long, but gives in to great temptation. It is more analogous to that form of disease which is characterised by lucid intervals. Those impulses which are only felt at certain times, like the east wind of this country, and are not like the chronic trade winds of the south, to a great extent resemble those intermittent attacks of disease which give place to tracks of time characterised by calm and perfect health.

"It is related," says the writer of a paper already quoted, "that a merchant of capital always got into a state of delirious intoxication from autumn to spring, but was most exemplary during the rest of the year; he was cured by being sent to the warmer climate of Italy during the winter."* A somewhat curious mode of treatment, and one which seemed to look upon the disease as due to the effects of cold! To whatever cause such periodical recurrences of the disease can be ascribed—and we fear that it does not, like green peas or oysters, come round with the seasons—it is certain that, if the tendency is unchecked, it will in time either become chronic or will lead to imbecility or mania. The chances of recovery are not by any means great. It is a difficult thing to break the back of a habit, even when in a healthy man, where its power is at its minimum, but to break the back of such a habit in a man diseased, where it has been formed because there was no human strength of good purpose to resist, is much more difficult. Resolutions during the lucid intervals which occur between the attacks are as numerous in the air as swallows in summer, but they disappear as fast, and are forgotten until the calm comes again. Promises thought to be binding are proved to have no force. The man is as pithless to resist as a straw in a river.

III. *Chronic oinomania.*—The healthy condition of the eye is to have the sensation we call light in relation with certain motions of an imponderable ether, but a blow in the eye will make it "flash fire," and give a similar sensation to that we experience when the eye is in light, although the blow may have been inflicted in the dark. The healthy choice, the exercise of will, seems to us to bear a relation to the impulsive choice, or exercise of will under the influence of disease, which we have already described, very similar to that which is borne by ordinary consciousness of actually stimulating light and

* "On some Varieties of Morbid Impulse."—'Journal of Mental Science,' January, 1866.

the extraordinary consciousness of light in consequence of the immediate effects of violent mechanical force. We are, in our present circumstances of health, which "holds the balance true," scarcely in a position to judge of the temptations of those whose scales are all awry, or of those who have no scales at all. Did you ever try to weigh two articles whose size, material, &c., gave no indications of their weight, with your two prejudiced hands? If you have, you will know what a liar the flesh is, with its muscular sense of touch notwithstanding. But the illustration between the flash of light as produced by a blow and the light as produced by undulations of an imponderable ether seems to us to be calculated to impress the distinction between material impulse and mental or motive weighing choice more clearly upon the mind of the reader. In the case, then, of chronic oinomania the winds of capricious impulse, which generally blow where they list, have got a charter, and can't tack about as they like. Hereditary taint, injuries to the head, disease of the heart, and habitual intemperance, all, at various times and in various degrees, influence the formation of this persistent habit. In this form of the disease the sufferer is always gnawed by a craving for stimulants. And we may here mention that this disease may manifest itself in relation to any of those substances which induce a present pleasure, to be followed by a future pain, which can be relieved by recourse to the original bane. On this form of dipsomania serious brain disease is almost certain to supervene, and during its continuance a gradual deterioration of all moral tone is observable. Reverence for truth is very quickly parted with, and the respect which is due to the property of a neighbour and strongest religious dictates do not keep the hands of the oinomaniac from picking and stealing. We know of one lady who stole her children's pocket money to satisfy her insane craving.

Much interest is connected with the question as to whether the dipsomaniac ought to be confined in a lunatic asylum; whether the law has any right to interfere with the liberty of a man to make himself drunk when he pleases; whether it be like the lord mentioned by De Quincey, who used to say, "Please God, I shall be drunk upon Saturday next," or be like him who was always what the Scotch call "boozy," so much so that some country folk surmised that it would be some time before he came to his senses either in heaven or hell, and that then he would wake to the sound of the last trump with a headache. But looking at the subject from an

ordinary common-sense view, we believe, that, as in many cases it can be proved that an individual has lost entire control over his actions, in certain relations of which incessant drunkenness is the significant fact, and as to deprive such a person of liberty for a season is to do him no wrong, but rather the compulsory right of making him abstain from what day by day gains an ascendancy over him, and day by day renders ultimate recovery and useful citizenship less and less possible, it is well to resort to restraint in cases in which these facts are capable of being proved. That habits can be formed under an absolutely necessary abstinence we do not doubt, and we believe that the careful diminution of the excitant as the ordinary human sentiments begin to operate beneficially, can only be properly trusted to a medical man. In the northern half of this kingdom many persons labouring under dipsomania are confined in houses set apart for their detention, and we are informed that there is at least one similar institution in the United States. There are doubtless many persons confined in those institutions that cannot with any propriety be called insane, but we would ascribe this circumstance to the irregular method of confinement of patients in these establishments, which are not under the ordinary control and supervision of the Commissioners in Lunacy, and to the ignorance which exists with regard to this disease in the profession generally. But when we come to examine the legal relations of intemperance, we shall have another and better opportunity of considering this and some cognate questions.

Pyromania.—The malicious and wilful burning of the house or the outhouse of another man* is looked upon by the law as a felony. Until recent times the setting fire to such a building, *any person being therein*, was punishable by death, and even at the present time it is, if need be, punishable by penal servitude for life. It is not merely the setting fire to a dwelling-house that constitutes the crime of arson, but he who burns a church or chapel, office, mill, malthouse or granary, or any building used in trade or manufacture, or farm-building, &c., is guilty of felony. Under the old law the mere setting fire to a building did not fall within the description *incendet et combussit*, and did not, therefore, amount to the crime of arson. Under the statute now in force, however, the offence consists in setting fire to a building, and therefore it is not necessary

* See 24 and 25 Vic., c. 100.

that it should be burned or actually consumed. There is one word of some importance in the definition of this crime, and that is the word *malicious*. Malice—as we use the word in the world—means ill-will, hatred, accompanied with a desire to injure the object of the sentiment; but malice in law consists in "the wilful doing of a prohibited or injurious act without lawful excuse;"* or in law it is understood to mean any wicked or mischievous intention.† In a prosecution for murder, which in the indictment is alleged to have been committed "of malice aforethought," it is not essential to show that the prisoner bore any ill-will to his victim, nor would any proof of the absence of enmity be a good defensive excuse if the charge was made out in every other respect; and the word malice, as used in the definition of arson, has this meaning. If the burning is not malicious, it only amounts to a trespass, for no amount of carelessness or negligence can fill out the meaning of the word malice. A servant, however, whose duty it is to be careful, who through negligence sets fire to a house or outhouses, may be sent to the house of correction for eighteen months.

Nothwithstanding the severity of the punishment which the law has prudently associated with a proved commission of the crime of arson, the offence is not unfrequently committed, and upon very many of the occasions where houses, farm-buildings, and the like, are set fire to, it is by those who are under the influence of the temporary excitement to which psychologists have given the name of pyromania. Many insane persons, from the simple desire to destroy; from the wish to burn the house down, that they may perish by a sort of quasi-suicide; from the mere wish to give annoyance, will, upon occasion, set fire to anything within their reach, but such cases do not fall within the meaning of the word pyromania. That a propensity to set fire to, and to look at the burning of, anything that will burn, does in some morbid conditions find its way to prominence in the democracy of mind, and makes a despotism of that republic, seems certain. It is certainly curious that what seems to ordinary men the means of a very limited gratification should in the mind diseased be the cause of a perfect ecstacy of excitement.

* Cr. L. Com. 6th Rep., p. 52, per Littledale, J., M'Pherson *v.* Daniels, 10 B. & C. 272.

† See per Best. J., R. *v.* Harvery, 2 B. & C. 268; R. *v.* Cooke, 8 Car. & P. 582; R. *v.* Farrington, Russ & Ry. 207.

What a grand history might be written of the lives of motives. Every age has its own loadstar motive. Every country has some motive which to it is more valuable than life, for which it will make war, for which it will starve and perish. And individual minds have god-motives, which rule them, some right, some wrong. But the power of motives vary in every individual mind, and in the same individual at different times and seasons. Who can look back and say, as he remembers the self of a year ago, I am the same man now that I was then? I am influenced by the same desires, and to the same extent? No one can say so, and speak truth. Men's minds are as unstable as the sea, which has shifting tides on shifting sands. But some laws can be deduced even from those changes. The same objects are not sought after by boys and men, the same motives are powerful or powerless as the mind is weak or strong—as the life has many objects which minister to it, or few. There is one liking of children which men put away to a great extent with other childish things, and that is the love of the gaudy. The higher a man is in the intellectual scale the less he cares for mere brightness; the weaker the mind is the more will be its enjoyment in a blaze. Fire-works are for children or imbeciles; the little peepy stars which nobody looks at strike a man like Kant dumb. We believe that a close connection exists between this love of the bright and glaring and the propensity which we have already considered of theft in connection with glittering objects. Any brightness has an extra-ordinary influence over rudimentary minds. The moth dies with a "puff" in the candle. Pigeons will forsake home for the sake of a mirror. And one of the most deadly baits used in fishing is the "spoon bait," which is bright and glittering. We believe, then, that the propensity to incendiary acts is connected with this inherent principle of weak minds, and as a proof, or sort of proof, of the assertion, we may state that this disorder is more frequently found in girls than in boys, and that in almost every case it occurs in early life, either about or under the period of puberty. We conclude that this motive has more force at such a time, owing to the development of the sexual functions, which invariably withdraws energy from the mental state. Marc is of opinion that it is manifested at this period in consequence of an abnormal or irregular development of those functions, which would bear out our theory if it could be proved to be true.

Many cases, however, occur in which the act seems to have been dictated by feelings of revenge. And in such cases, even although there may be mental weakness, there does not appear to be sufficient ground either to regard it as pyromania or to hold the individual irresponsible for the act. In the other class of cases, where the impulse is so strong as to be in fact irresistible, where the motives for not committing the crime, as looked at from the point of view of the accused, were as strong as they could be for doing it—as where the property was a man's own and uninsured—and still the act was done, there is good ground for regarding the individual as insane, although no very prominent intellectual features of disease may be discoverable. When it is associated with delusions the conclusion of the insane origin of the act can generally be traced, as in a case where a girl believes that God has told her to burn down a certain church, or that her mission is to give light to the world by setting fire to haystacks. But there are many instances in which no delusion could be discovered, in which the act was in precisely the same relation to the individual that we have found the appropriation of property to be in some cases, and where the only reason that can be given by the individual is that "She couldn't help it."

Jonathan Martin set fire to York Minster. There could be no doubt as to his insanity, even apart from this act. It is interesting to observe in his mind, as manifested in all his pictures, that love of the gaudy which I have been considering. He paints in colours which almost wound the eye.

Thus, Marc mentions the case of a boy of sixteen, who, after struggling with an impulse to set a friend's father's house on fire, at last yielded, or after a year could not restrain the impulse.* Ray mentions the case of "a girl of quiet, inoffensive disposition, and whose character had hitherto been exemplary, who made seven different attempts at incendiarism, in a village near Cologne. When interrogated as to the motives which had prompted her to act so wickedly, she burst into tears, confessing that, at certain periods, she felt her reason forsake her, and that then she was irresistibly compelled to the commission of a deed of which, when done, she bitterly repented. She was acquitted by a jury of all criminal

* Marc, vol. ii, p. 291.

intentions."* He also quotes a case from Gall,† which Gall quoted from a German journal, of a certain Maria Franck, who was executed for "fire-raising." Within five years she set fire to twelve houses. She was of peasant origin, and an unhappy marriage induced her to try and drown memory in the oblivion to be got by intemperance. She once saw a fire, and "from the moment she witnessed this fearful sight she felt a desire to fire houses, which, whenever she had drunk a few coppers' worth of spirits, was converted into an irresistible impulse. She could give no other reason, nor show any other motive, for firing so many houses, than this impulse, which drove her to it. Notwithstanding the fear, the terror, and the repentance she felt in every instance, she went and did it afresh."‡

In this case it seems far from certain whether the accused should have been held irresponsible. It seems to have been in her power directly to avoid the recurrence of the impulse by entire abstinence from alcohol. And if a man voluntarily and knowingly place himself in a position where he has no choice, but must commit a crime, he is properly regarded as voluntarily committing the act in question. To relieve Maria Franck of all responsibility the defence would have

* 'Medico-Chirurgical Review,' July, 1836, p. 216; Ray, 'Med. Jurisprudence of Insanity,' p. 133.

† 'On the Functions of the Brain,' vol. iv, p. 104.

‡ An interesting case was tried at the High Court of Justiciary, Edinburgh, in the year 1855. A medical man, Dr. Smith, was charged with wilful fire-raising at the Haughs of Kinnaird, near Brechin. The defence in this case was that Dr. Smith was insane. There was no doubt as to the facts alleged in the indictment.

Dr. Christison, in his evidence, said, "I have not seen him at any time in a state of insanity. I would think it very probable he may occasionally be in a state of insanity, notwithstanding the calm and quiet state in which I found him in prison. A medical gentleman sent to see him, and merely sitting and talking with him, would not, except by accident, discover any trace of insanity. The form of insanity I would expect in this case is unreasonable suspicion and strong feeling of resentment on account of imaginary injuries; but, of course, any form of insanity might arise, though the one I have mentioned is the usual form. A man under the influence of such delusions I would pronounce insane for the time." The jury found that Dr. Smith "committed the act of fire-raising mentioned in the libel, but that he was insane at the time of doing so." Cases of this kind are to be distinguished from pyromania properly so called. A man with a delusion resorts to many of the same acts that a sane man will, and when the fire is raised with the intention of revenging a supposed injury the act, although an insane act, is not that of a pyromaniac. The whole of the evidence in this case will be found in the 'Journal of Psychological Medicine,' April, 1855.

required to prove that she was not a voluntary agent at the time she took the stimulants.

Without dwelling longer upon this form of insanity, which is not by any means common—although a large number of cases occurred in Normandy in 1830—we may remark that in all cases it is important to ascertain whether the incendiary act has been committed upon the approach of menstruation, or in connection with its disorder or suppression. Inquiry should always be made as to the condition of the patient's nervous system, as to whether he is liable to involuntary muscular movements, tremblings, spasms, convulsions, or catalepsy. Together with those symptoms we may generally expect to find weakening or weakness of mind approaching to imbecility.*

Suicidal mania.—Many wise men have argued that under certain circumstances a man is entitled in mere self-defence to kill himself. Hume, Rousseau, Madame de Staël, Montesque, Montaigne, Gibbon, and Voltaire have all endeavoured to show that circumstances might justify suicide; and one writer, Robert of Normandy, surnamed the Devil, not only wrote in praise of it, but, knowing how much more powerful example was than precept, actually killed himself! Many men of much nobility have committed suicide, and Isocrates, Demosthenes, Cato, Lycurgus, Codrus, and a great many more, have tried to get into the next world by a sort of private entrance. But although philosophers and lawgivers once thought that suicide was not to be condemned, and imagined that circumstances might arise under which it would be the most rational course to pursue, in the present day we are informed emphatically that "suicide is not the act of a healthy mind," and are assured that in all cases suicide is a proof of the existence of insanity. So Sir S. Romilly, Lord Castlereagh, Cotton, and Chatterton, were all mad according to recent medico-psychologists. Now, although the actual pleasure of living is, even in the midst of sorrow, very great—

> "This world is very beautiful, oh God!
> I thank thee that I live—"

times do come when that thread of hopes and fears, sensations and sentiments, thoughts and deeds, which we call life, yield so little joy

* Other cases will be found in Dr. D. H. Tuke's work on 'Psychological Medicine,' and in Marc.

in the mean time, and so little hope of "better to be had," that a very wise man might see reason to be hurled—

"Anywhere, anywhere,
Out of the world."

It may be better and braver to stay and bear the evils. It is nobler and grander to stay for the sake of others, that by your patience under suffering they may learn the great lesson of life to suffer and be strong. But the man who does not do the bravest thing he might do—the man who is not guided by the best and highest moral rules—is surely not mad.* And we are warranted in believing that, although in many cases self-destruction is a symptom of diseased organism, yet in other cases it is a matter of healthy choice of possible good rather than positive evil. It is a choice which men make each day of their lives. Speculation is a choice of a possibility as against a certainty. Gambling is for the pleasure of playing with possibilities. Many motives are only "orders," and some of them are dishonoured in time. Well, suicide may be the act of a healthy mind.† It may in all cases be a mistaken choice; it may always be wiser—

"To bear those ills we have
Than fly to others that we know not of."‡

But a mistake is not a proof of mental unsoundness, or is folly an indication of insanity. A colonel of the Prussian Hussars, having lost all he had at the gaming table, and not wishing to face the world that frowns so severely upon poverty, went home, made arrangements, married a girl that he had seduced, and then shot himself. A Greenwich pensioner who had his allowance stopped stabbed himself with his spectacles. In such cases there is no indication of the presence of mental disease. But although a man may destroy himself and still be sane, in a large majority of cases the act is done under the influence of insanity. And although in

* Suicide is not sufficient of itself to prove that the person committing it was of unsound mind. Burrows *v.* Burrows, 1 Hagg, E. R. 109; MeAdam *v.* Walker, 1 Dow., 179; Chambers *v.* 9 Proctor, Curt. 415; Brooks *v.* Barrett, 7 Pick, 94.

† One sixth of 4077 cases examined by Brierre de Boismont he assigned, as regards their causes, to insanity, one sixth to drunkenness, one fourth to domesti troubles and wretchedness. (See 'On Suicide,' p. 100.)

‡ "The suicide," says Aristotle, "does not undergo death because it is honorable, but in order to avoid evil."

some cases an attempt to commit suicide should be punished as a misdemeanour at common law,* yet in very many cases the individual should, upon the ground of insanity, be held irresponsible for his act, and exempted upon that account from punishment.

When suicide is the result of insanity it may either be the result of profound melancholy amounting to disease, or from a perversion of those instinctive desires for self-preservation which are the very foundation stones of our mental constitutions. There may exist what has been called suicidal monomania, and self-destruction may be had recourse to as a reasoned act to get rid of the awful load of unreasoned and unreasoning grief and despondency. Cases have come under the notice of almost every medical man who is in connection with hospitals for the insane in which patients have petitioned to be restrained from committing self-destruction. Individuals there are who are aware of their own weakness in the presence of temptation, just as those individuals who are liable at certain seasons to invasion by impulsive desires are aware of their impotency in the presence of that monarch motive which binds them to do his bidding, and so before the steed is stolen they try to shut the door. This is not the ordinary bravado shout of a boy who does not want to hurt himself, but makes a great show of preparations for instant death to frighten his relatives, and who, if he sees no preventive measures on the part of his friends, cries, "Hold me, or I'll shoot myself; I know I will." No, in the real cases of impulsive propensity to commit suicide a great number of circumstances will conduce to show that the person is really at certain times unable to control his actions, and the motive of the threat in the one case will distinguish it from the warning and demand for restraint in the other. Dr. Tuke quotes a case from M. Debreyne† as follows:—"The patient, who was opulent, stated that he was perfectly happy, and free from any cause of suffering, with the exception of one circumstance which tormented him. This was the desire, thought, or violent temptation, to cut his throat whenever he shaved himself. He felt as if he should derive from the commission of the act *an indescribable pleasure*. He was often obliged to throw the razor away." As to the facility of the formation of such a sentiment as that just mentioned, we may remark that the very existence of suggestion is a very

* Reg. *v.* Burgess, 1 L. & C. C. C. 258.

† 'On Suicide,' p. 82.

powerful motive in all weak minds. Children will do anything they see done, and the mainspring of such actions is the simple thought or suggestion. We have heard a gentleman confess that when in a position to do any act which he had never done, and that he was not in the habit of thinking about, the very thought seemed to create a desire to do the act in question. Once standing beside a line of rail, the thought of how easy it would be to see death's treasured mysteries by throwing himself before the approaching train, he felt a desire or impulse to do so, which, however, he had no difficulty in resisting by the consideration of motives for not doing so. This gentleman was perfectly sane, but the type of act and motive is the same in health and in disease; the comparative power to resist is only infinitely less in the latter than in the former. As in all the other forms of partial moral mania, we find that it is frequently associated with intellectual disorder. Many men commit suicide under the influence of delusions. Voices from heaven urge them to offer themselves up as a sacrifice for a sinful world.

M. Brierre de Boismont, in his work on 'Suicide,' has observed, concerning suicidal patients which had come under his cognizance, that eighty-three had hallucinations of hearing, thirty of sight; and in six there were illusions of hearing, thirteen of sight, thirty-three of smell and taste, and six of touch. We shall consider—1st. The modes of death; 2nd. The age; 3rd. The sex; 4th. Hereditary transmission; 5th. The seasons; 6th. The assigned motives in connection with this subject; as an intimate knowledge of the facts of diseased suicide will often enable the medical jurist to determine whether the act, or the attempted act, was due to morbid mental conditions or not. There is evidence of the necessity of a more thorough knowledge of suicide and its relation to health in the frequency of the verdict given by coroners' juries of "temporary insanity."

1. *The modes of death.* The statistics with regard to suicide are not in a satisfactory condition. In one table we find that the greatest number of suicides is ascribed to drowning, in another to strangulation, and this cannot be accounted for by supposing that they are the statistics of different countries. But one thing we gather from all the tables that we have looked at with reference to this matter—that drowning, strangulation, and the use of firearms are more frequently the immediate causes of death in cases of suicide than are precipitation, the use of cutting instruments, or poison.

So far as we can ascertain, there is no guide to be found in the mode of death to the solution of the question as to sanity or insanity, as the same means are adopted by those who are sane as by those who are insane. Much ingenuity is manifested in many instances in the contrivances which are meant to procure death both by the healthy and diseased.* Weak-minded persons not unfrequently try to injure themselves by swallowing things utterly indigestible. And in one case a large number of pebbles were swallowed with this intention, but nature, although it could not digest the stones, put up with the inconvenience, and no injury resulted.

2. *Age.*—Suicide does not occur very often early in life, although there are many instances of suicide committed by children on record.† The ages at which it is most common in France is shown, so far as such a table can give a correct indication, in the following comparison :‡—

Under 16	15	From 60—70	384
From 16—21	147	70—80	171
21—30	481	80 and upwards	20
30—40	549	Unascertained	110
40—50	647		
50—60	506	Total	3020

We may add the following facts as to suicide in Geneva, as stated by M. Prevost :—

Age.	No. of cases in ten years.		Men.		Women.
From 50—60	34	...	25	...	9
20—30	33	...	25	...	8
60—70	19	...	10	...	9
30—40	18	...	15	...	3
40—50	15	...	13	...	2
70—80	9	...	6	...	3
10—20	5	...	3	...	2
80—90	3	...	1	...	2

3. *Sex.*—Suicide is less common amongst women than men, if

* See Dr. Winslow's 'Anatomy of Suicide,' p. 283 et seq. Several interesting cases are given in the Reports of the Cri. Roy. Inst. for 1850, p. 20, and 1851, p. 13.

† "Children know nothing of that breaking from prison which is called suicide," says Victor Hugo ('L'Homme qui Rit').

‡ See Bertrand, 'Traité du Suicide,' p. 73.

statistics may be believed, and we confess that we have no belief in the infallibility of figures. If we did regard them with the reverence that some would have us, we would look upon suicide in males to suicide in females as bearing the same numerical relation that three does to one. But, upon the whole, we should say that self-murder is more common in the stronger than in the weaker sex.

According to the experience of M. de Boismont, there is no such peculiar relation with respect to suicide of the two sexes in the insane. Another opinion seems borne out by all the evidence which is to be had in the case. Attempts at suicide are not at all infrequent during pregnancy. Amongst the sane more unmarried persons of both sexes commit suicide than married; and when we turn to the insane, we find their relation reversed.

4. *Hereditary transmissions.*—We must say we do not believe in the hereditary transmission of a tendency to commit self-murder as it is ordinarily understood. That many cases are to be found of father and son and grandsons committing suicide, or making the attempt, we are prepared to hear, and already believe; but we are inclined to think that in such cases the suicide was dependent upon a mental disease, which was transmissible, and upon circumstances which tried the individual and found him unable to stand the test. We are loath to credit the descent of something which has no real existence, except in so far as it originates in lack of mental power as regards a particular class of circumstances or objects. But we are most willing to credit the inheritance of tendencies, of strength or weakness, of disease or health. If education and nurture teaches the child to have the same tastes and the same desires as its father, and it walks in his footsteps, we should expect to find the same form of disease, in relation to environment, developed, and probably the same or somewhat similar manifestations, by means of acts, resulting therefrom. Besides, so great is the power of suggestion, that the fact that a father committed suicide would have some considerable influence on the actions of the son. Example is not always merely the result of the reasoned advantages of a certain class of acts; it is as unreasoned a following as that of sheep after one another through a hedge. A boy once confessed to us that, having found a pound note, he meant to spend it, until he thought, from the fact of no inquiry being made for it, that it could not be a good one. The mere force of the suggestion restrained him from

making use of the note, and he had it in his possession for years. The proof of our proposition is found in the fact that the tendency to hereditary suicide, if we may use the expression, is found in those families where there is an association between suicide and insanity, and not in those families where the sole symptom of the disease was the suicide, or in those cases where the suicide is due to monomaniacal impulse. We know of one family in which the mother was insane, in which three of the children committed suicide, and two are at the present time subject to mania, with lucid intervals. Rush tells the story of a family. A lady was subject to suicidal insanity. She had two daughters, and they were similarly affected. She had two sons, who were twins; the one was found with his throat cut, the other almost in the presence of his wife killed himself by cutting his throat.

5. *Seasons.*—Suicide is most common in spring and summer, but, as Dr. Radcliffe has observed, "it does not follow that this arises solely, or even largely, from the meteorological character of the two seasons." Everybody would have thought that November, with its dreary drizzling rain, its clinging mists, its grey sky, and its doleful winds, would have conduced to suicide more than the cheery spring, with its opening flowers, pleasant breezes, and—

"Smale fowles maken melodie."

The epidemics which are authenticated have almost invariably taken place in June and July—the "dog days." And we have quite recently been shocked by the announcement of the suicide of a well-known man of letters, which is ascribed to "the excessive heat."* We quote a table from Dr. Winslow's book. Of 133 suicides, there were in—

April	19	March	10
June	17	November	9
August	17	September	6
July	15	January	5
October	14	February	5
May	13	December	3

There are some most interesting statistics in Dr. Radcliffe's paper already quoted.† With regard to the distribution of suicides in the

* Prevost Paradol died about 20th July, 1870.

† "English Suicide Fields." By J. N. Radcliffe. 'Medical Critic and Psy. Jour.,' vol. ii, p. 701.

different counties of England and Wales, his analysis shows that Middlesex produces most self-murders, Westmoreland stands next in the scale, and Rutland and Cornwall stand lowest in the list of English suicide-producing counties. There is, of course, some close connection between instruction and suicide; the higher the civilization and education in a county, the more suicides do you find in it. But a comparison of the ranks of society show that it does not take place so frequently in the higher ranks, although they are better educated, than in the lower middle, showing that a little knowledge is a dangerous thing, and that it is for the want of the higher motives of morality that it really does take place so commonly amongst tailors, shoemakers, and small traders. But we are going out of our way to discuss a question when many lie to our hand—always a bad policy. With regard to the time of day at which self-murder is most commonly committed, we believe that we are correct in stating that more take place during the day than under "the blanket of the dark," more in the morning than in the evening.

Assigned motives.—The assigned motive of the suicide, when it is the result of impulsive monomania, is almost always trivial. There is a whimsical littleness about the excuses and reasons given by the individual, when discovered in the attempt, which shows that they fail to appreciate the true cause of the sad symptom. "I couldn't help it"—the old excuse which has been since the beginning, and will be to the end. The laying of vice upon the shoulder of fate, who shall bear the blame also, but carrying all the merit of doing virtuously ourselves. But that reason "could not help it," is the best excuse of suicidal insanity, properly so called, and it is for the medical jurists to discover whether it is true or not. Two lovers died in each other's arms, and asserted in a letter to the world that they were too happy to live. Sir S. Romilly died in order that he might be reunited with his wife, the grief for whose death weighed him down. A gentleman is said to have killed himself in order that he might be saved the trouble of tying his garters of a morning. And the desire of notoriety is not an uncommon inducement to the commission of suicide, and irritation is, as we have pointed out, the cause of many suicides. All these motives might have influence over weak minds in which we could not discover any morbid element, but they will be found to have a greater influence over

those minds which are weakened by disease. We find that in many cases the same mind which would be liable to be influenced powerfully by inducements to suicide would also be open to the impulsive temptations to homicide. The two acts are somewhat closely connected in thought, and the frequency with which death has been sought by the sane to avoid the consequences of murder must, to minds weakened by disease, connect those acts and propensities still more closely. And the fact proves that they really are very frequently manifested by the same individual, and much difficulty does arise in practice owing to this circumstance. We come then to—

Homicidal insanity or mania.—Much ingenuity is wasted in this world, or, at least, only serves an indirect purpose, not that which it was intended to subserve. So it is with much of the reasoning about homicidal mania. How many attempts have been made to prove that an impulse to kill does really exist? How many efforts are made to prove all the judges in England who won't believe in the existance of such impulses a parcel of very stupid old gentlemen? How many cases, in which it seemed no reasonable man could doubt that an uncontrollable desire to take the life of another did really exist, have been collected, and carried from one reservoir of facts into another? How many indignant appeals have been made to the country at large not to sanction the horrible injustice of impressing its principle of the certainty of punishment upon the public, by means of cruelty to the persons of poor lunatics, who were as innocent of the crime as a horse, which carries a man to the place where he means to commit a theft, is of the robbery? And when another comes to speak of the same subject he must be guided by the tracks of his predecessors. One's wheels run in the ruts. And all that a new comer can hope to do is to avoid one or two of the inaccuracies of which those, who have gone before him, have been guilty. Some writers, in attempting to find out what homicidal impulse really means, have sought assistance from the dead words of the phrenologists. They have found out what they call a propensity to destroy or a faculty of destructiveness. This, upon the face of it, looks a great discovery. A propensity to destroy in sane men, an exaltation of the tendency in insane men, gives you inordinate propensity to destroy—to destroy what? Why, life; *i. e.* a homicidal impulse. But when they attempt to show that there is some such propensity

in mankind they are not so successful. They reason that an all-wise Providence would probably give man such a propensity to destroy because there are many things in man's environment the destruction of which benefits humanity. How easily men reason as to what God ought to have done. But is this propensity theory not infinitely clumsy? And does it not violate all the laws of economy? You give man a propensity to destroy. The propensity does not tell him what it would be well to destroy. Thought and experience do that. Now, on this hypothesis you require your propensity and your reason, while it is quite evident that reason could do it quite well enough without any such assistance. By thought a man becomes convinced that the removal and destruction of a certain animal or object would conduce to his happiness, and by thought he thinks how that can most effectually be done, and he comes to the conclusion that it can be best effected by destruction or death, and he destroys or kills it. Where is the necessity for your propensity? Away with it, then, if it is of no use. Does a man require a propensity, when he is hungry, to induce him to kill to satisfy his hunger? Does he require a propensity before he can bait a trap for rats? Has the housewife a savage pleasure in the mere fact of death when she sees the patent fly-paper strewn with dead insects? Does the fact that some savage tribes kill more animals than they can use for food prove anything as to the existence of a propensity to kill? Or does it only prove that they take an intense pleasure in the exercise and exhibition of skill, that they do not care anything about the life or death of other animals, which is much too remote a fact from the current of their lives to affect their somewhat limited sentiments, and that they are utterly careless as to the future, thinking that the morrow has a personal interest in looking after its own affairs. That a blow is given for a blow is no proof of a propensity to destroy, as some have argued,* but is a proof of the existence, under injury, of a sentiment we have denominated "anger," a characteristic feature of which sentiment is a desire to injure the cause of the mental irritation. Neither can the reality of this so-called "destructiveness" be augured from the wrath which children vent upon inanimate objects when injured by them. Anger, like all real strong passion, tends to the externalisation of mind in acts. And those acts have a certain complexion, a certain bent; they are

* See 'Jour. of Ment. Sci.,' July, 1863, p. 197.

intended to injure the object that injured us. It is reason alone convinces us after much experience that we do not injure the cause of that injury by a blow, unless the object of our anger is endowed with life. Even the strongest anger is guided by thought. So far, then, we have seen no reason to believe in a propensity to destroy or kill. There is a tendency in human minds to view and consider the possibilities of change or of no change. And an habitual mode of thought will make a man prefer one of those courses, even somewhat irrationally, if the mind is not very powerful, and this preference is strengthened by a necessity for consistency and the like. So men are conservatives or radicals, and in so far one may have an acquired propensity to destroy, or at least, to change, but in no other way that we can see. Then let us examine again the possible motives of men, as the sails which the winds of passion fill. A man kills another in anger, or he kills another because they both love the same woman, or he kills another because he has a piece of property that the murderer desires to possess. Such are some of the motives which induce to the destruction of life. Now, the law has defined murder as "the killing of any person under the king's peace *with malice aforethought* express or implied."* And in each of the three cases above supposed there seems reason to think that the indictment which runs to the effect that the prisoner did on the day named, "feloniously and wilfully, and of his malice aforethought, kill and murder" the deceased,† would lie.

Now, the type of all punishment is to be found in the sentiment of anger which we have referred to above. When a disease came upon the earth in times past, the peoples thought the gods were angry, and the smoke of bulls and rams went up to appease them. In human anger the injury is the most prominent idea, and almost inevitably suggests the punishment, and therefore we find blow given for blow. And we find that some codes of laws have so far proved slavish to the type, and have decreed an eye for an eye and a tooth for a tooth, and, indeed, in our country in the reign of Edward I incendiaries were put to death by fire, as was also the practice in some Gothic constitutions. But although anger is the real type of all punishment, and the object of anger and the object of punishment are the same—in the one case to repel injury which might be again

* 4 'Bla. Com.,' p. 195; 3 Inst. 47; 24 and 25 Vic., c. 100, s. 6.

† 24 and 25 Vic. c., 100, s. 6.

offered to the individual, in the other to repel injury which might again be offered to authority,—punishment, as put in force in a highly civilised country, has lost much of the essentially human property which it had in earlier times. As individuals learned by experience that there was no real advantage to be gained by venting anger upon the inanimate, as they discovered that it was only the animate that could experience, that could be taught, and therefore could be deterred by hostile demonstrations, so the State learned that it was expedient to punish only those who were animate in the full sense of that word, those who were not bound hand and foot by circumstances, such as *duress* or absolutely diseased organism, as they were to all intents and purposes unable to experience, incapable of learning, and therefore could not be deterred by any such punishment. The State might have argued that, although no individual who is ever placed in these circumstances will ever learn that it is well to refrain from certain acts, persons in other circumstances will; just exactly as the child might have reasoned, "If my hitting the gate does not teach the gate not to hurt me again, it will show the boys who are looking on that I am not to be trampled on even by a gate." But the fact is, that neither of the supposed persons did reason thus, and so it comes about that law exempts from punishment all such as can be proved to have been, as it were, inanimate, and therefore, in the true sense, "not guilty" of the crime with which they are charged. Well, when that crime is murder, the law does, under certain circumstances, exempt an individual from punishment. If a man kills a neighbour in a fit of mania, he is not held responsible; if he kills his neighbour under the influence of an adequate delusion, concerning facts which, if true, would justify his killing the individual, he is not held responsible, and the same rule holds good of a person believing in an illusion. Finally, the law holds that individuals labouring under amentia, dementia, or melancholia, and who have no knowledge that they are doing right or wrong, what is commanded or forbidden, are to be exempted from punishment in case they commit murder. But this is not enough; it is believed that in many cases individuals may have been sane until just before the commission of the crime, and that the murder may be the first indication of insanity; and it is impossible to deny that this may be, and is sometimes, the case. There is no prescribed form of beginning to be mad, and there is no vagary, no act which, from its appa-

rent motivelessness and absurdity, may not be the first external manifestation of the internal disease. So far, then, everybody is at one—that murder is committed by insane persons, and that an act of murder may be the first indication of the presence of morbid mental conditions. In a former part of this work we explained at some length how the action which was done with an overwhelmingly powerful motive (if it is trivial in comparison with the ordinary motives of mankind) may, and does, give an appearance of motivelessness and impulsiveness. Now, this impulsiveness, which is due to the incapacity of the mind to be influenced by all the tendencies of ordinary humanity in an attitude of choice, has many analogues in that part of nature which is only half animate—if we use animate as meaning life with choice, in which sense we should not call plants animate, and in this sense moral notions would be coextensive with animacy—that part of nature which is out of the dominion of immediate consciousness. Thus, we find that one man cannot choose but laugh when he is tickled, although the time and place and presence may make it most imprudent; if he was to die for it he could not help it. After he has laughed he may be sad enough because he made a fool of himself, but the next time you find him in a public place, with every motive which can be brought to bear on a man to make him grave, and tickle him again, he will laugh till his sides are sore. Now, in hysteria we find this condition not produced by the actual volition of another, and the actual acts of another, but by disease in the organism of the individual. Laughter and tears come, and real voluntary tears may be shed afterwards, but no vows will keep away that laughter and those tears, which are just as much an attribute of the inanimacy of man's nature as inertia is. No will can abolish inertia. That men can reason about a thing after it has happened, and can with perfect accuracy place it in the category of right or wrong, does not prove that it was in his power to do or to abstain from doing it, as the case may be, at the time. If a man gets drunk, and during his intoxication he commits a crime, the law very properly holds him guilty of the crime committed by him during his temporary incapacity to govern himself, because the law argues that a man ought not by any act of his own to incapacitate himself from ruling his conduct according to law and justice.* If, however, it could be proved that the man had not made himself

* See Per Parke B.; R. *v.* Thomas, 7 Car. and P. 820.

drunk, if it could be proved that another, by force, fear, or fraud, made him take that which caused his temporary incapacity, then it appears to us to be the best opinion that he would not be held responsible for any criminal act committed by him during the drunkenness, if the intoxication was of such a nature as to preclude the possibility of his knowing what he did. So in cases in which this irresistible impulse occurs it seems unfair to punish the individual for any act which was entirely beyond his control, as the incapacity was not willingly produced by his own deliberate act. True, it may have been caused by his own acts, as a man's past life is a cause, in the true sense of the word, of any subsequent fact of his being. But so in a case of duress it might be argued that the man, if he had never cultivated the society of his friend, or if he had never told him that he had £1000, would not have been subject to duress, and that, therefore, the duress was brought about by his own act. But these causes are much too remote for the law to take cognizance of, and if a real impulse to kill—using the phrase as we have above explained its meaning—can be proved to exist, if it can be shown that no amount of certainty of punishment was a motive to him, and that had punishment for the act been as absolute a certainty as one of the laws of nature (*e.g.* that if a man puts his hand into the fire he will be burned), it would not have restrained the act, and that this is due to disease, then we hold that the law ought to exempt that individual from all criminal responsibility. One or two more words concerning this impulse, and how it comes to be an impulse to kill (for we have repudiated the propensity theory), before we turn to some of the cases which have been adduced to prove its existence.

This impulse, which is just the ordinary passion for any desirable object unrestrained by any motive, and that due not merely to an excess of the passion, but to the diminished power of appreciative motive resistance, which is due to disease, is peculiar in that it is an impulse only in one direction to the external world. It may be to theft, it may be to suicide, or it may be to murder! How is this? How comes it that a man who is influenced by ordinary motives in every other relation of life is uninfluenced in this one relation? And second, how comes it that this impulse is satisfied when it has acted with one spasmodic effort? Why does the homicidal maniac cease to kill after having murdered one or two people? If a man

has lost all power over his actions in one direction, why does this *vis* of nature, which cannot be governed by such a governor as the engine mind has over it, wear itself out with one or two acts of atrocity? These are questions of the utmost importance, and little or no attention has been bestowed upon this part of the subject.

1. Why should a man's relations to the world be injured in himself, by disease, only in relation to a very limited class of objects? Just because it is a law of nature, which is to be found everywhere. The man who sees a decollated head, which is always before his eye, the man who sees a "dagger of the mind," yet sees other objects with perfect distinctness, he can tell you the colour of a rose and the shape of a mountain. We find it, therefore, in disease, and cannot say, why? It may seem extraordinary that one drug should contract the pupil of the eye, another flush the face and neck, another give ringing in the ears, and so on. We only sail round about it when we give for a reason the words of Dr. Watts, "It is their nature too." But we find the same law in the mental phenomena of health. Men have prejudices, which are the back-stair influences of mental life. One man will be miserable for a week if he has eaten flesh on a Friday, while another will feel unhappy if he has not. One individual will feel nervous if there are thirteen persons at table, if two magpies cross her path, or if a friend married in May. And yet all these individuals are sane, and can reason well and soundly concerning other ordinary phenomena. One man will sicken over something that another enjoys. But we have considered this question at some length in an earlier part of this work.

2. Why is the impulse satisfied by one act? Why, if a man has lost the power of choice, and a comparatively insignificant motive binds him abjectly, why should that insignificant motive lose its force at once upon the completion of one act, according to its mandate? This, again, is just a fact in nature, and if analogy brings one nearer to knowledge—as it is supposed to do—there are many facts of an analogous character which can be mentioned. The desire for an object believed to be desirable ceases for a time on the attainment of the object sought or wished for. It may return, but in the mean time there is a *sate*. So it is with the death of another, or the death of some one, or the cutting of a throat—for death, as an actual object, is not often the object of the homicidal maniac's desire—when it is done the individual is satisfied; the wish may return, and does

return, as hurtful feelings come at intervals to healthy men, but it is gone in the mean time. Then, the nature of the act which the individual has done, the result of the impulse is so startling, so likely to induce consideration, so well calculated to call up ordinary motives, horror, sorrow, consternation, and the like, as to deter from the whimsical motives which are to be found in the insane person's mind. So powerful is this fact, that it calms a man's anger, if before he was half mad with fury.* So powerful that even upon the maniac such an event, associated as it is in mind with all those motives which make the book of conscience—which makes cowards of us all—will have a calming effect. And the actions of the insane upon such an occasion are often more rational than at other times.

Such being the fact, then, we proceed to state some of those cases which have been recorded as proofs of the existence, and as indicative of the peculiar modifications, of this mental fact—this irresistible impulse. We would say, however, that many of the cases which have been given, even by high authority, do not seem to warrant any opinion save that there are many cases of homicidal impulse which might be restrained by the fear of certain punishment, for we are convinced that an immunity from all disageeable consequences is one means of increasing the frequency of a real insane impulse to kill, as it is of increasing the frequency of the common sane desire to do the same act.†

Cases of homicidal insanity are very numerous, and much attention has been directed to this kind of emotional insanity. The works of Esquirol, Rush, Prichard, and Marc, contain many interesting cases. In this place we shall quote only a few of those.

In France, in 1854, a boy shot his stepmother. He confessed the act, but said it was the result of a mysterious irresistible impulse,

* "For of his hands he had no governement,
Ne car'd for blood in his avengëment;
But, when the furious fitt was overpast,
His cruell facts he often would repent.
Yet, wilful man, he never would forecast
How many mischievs should ensue his heedlesse hast."

† Reference to the following works may be made:—'De la Folie cons. dans ses Rapports avec les Quest. Med. Jud.,' par C. C. H. Marc. Dr. Ludwig Meyer on "Mania Transitoria," in Virchow's 'Archiv,' vol. viii, p. 192. M. Brierre de Boismont in the 'Annales Méd. Psych.,' vol. viii. Prichard, "On Insanity in relation to Jurisprudence;' Bucknill and Tuke's 'Psychological Medicine,' &c.

a term with which reporters on his state of mind (including Calmiel) remark he could not have been familiar. He admitted an aversion to his stepmother. There was no disorder of the intellect apparent. There was hereditary predisposition to insanity on both sides.*

"An hysterical female, nurtured in affluence, buoyed up by brilliant prospects of the future, is exposed to adversity, feels sensitively every privation, even every duty imposed in her new position, as an injury and offence offered to pride, becomes estranged from her friends, who are associated with her in misfortune—is aggrieved by the look of a parent, and attempts to kill her. This person is now separated from the objects of her dislike and the circumstances which produce this estrangement, but the look rankles in her memory, and the sanguinary impulse returns. She is at one time a weak, weeping girl, at another a formidable Amazon. She passes from the piano to wild declamation, but in all these states, if capable of concentrating and confessing her thoughts, she admits her thirst for revenge because she was looked at. This passion has widened its range, and now includes all who deny her unbounded homage, and, as is often the case, is accompanied by a tendency to self-destruction."†

"A man," observes Esquirol, "aged thirty-two, tall, of a spare habit of body, nervous temperament, and mild disposition, had been carefully educated, and was a cultivator of the arts. He had suffered from cerebral affection, of which he had been cured for several months. He had been in Paris for two months, and had led a perfectly regular life. He entered one day the Palais de Justice, gained access to the hall of the Pas Perdus, threw himself upon an advocate, and seized him by the throat. He was arrested, conducted to prison, and committed to my care on the same day. At my first visit, which was made on the following morning, he was calm, tranquil, without anger or resentment, and had slept the whole night. On the same day he designed a landscape; he remembered very well what took place on the previous evening in the Palais de Justice, and spoke of it with indifference. He had, however, no recollection either of the motives or circumstances attending the act, and entertained no regret on account of it. He replied politely to my questions, without dissimulation, and with the accent of truth,

* 'Annales Médico-Psychologique,' April 5.

† Dr. Browne, Crichton Inst. Rep., 1849, p. 13.

'I went to the Palais de Justice as I would have gone anywhere else, to the Palais Royal or to the Tuilleries, like an idler, who was walking before me without any intention or special purpose. Not only had I no ill-will against this advocate, but he was entirely unknown to me, nor have I ever had an interview on business with any advocate whatever. I do not understand how I could have met with a disaster of this kind. It might have taken place anywhere else, and I might have been directed to any other person.' On my remarking to him that nothing but an instantaneous disorder could explain this act, 'You can explain it as you please,' he said; 'as for myself, I do not feel ill, and I am unable to say how this event has happened to me.' During the three months that M— was subject to my observation he never was for a moment incoherent, never delirious, and never committed an unbecoming act; he was polite and obliging to all, amusing himself with drawing or reading serious books; he preferred solitude, but without affectation."*

In 1869 Besgrove was tried and found guilty of murder; he was incarcerated in Broadmoor Asylum. It was proved at the trial that he had seen a man—of whom he previously knew nothing—lying asleep in a field; that he had taken a large stone and dashed out his brains, and then laid himself down and went to sleep close to his victim.† Besgrove was an epileptic, and his mind had probably become weakened by the disease until a simple mental suggestion became powerful enough to be the motive of the gravest act. We have, however, already sufficiently explained our theory of the force of insane impulses. In this place we would only give a few cases collected by some of the ablest observers, which seem, upon the most careful consideration, to raise our hypothesis to a higher state of certainty.

Dr. Browne, in his report of the Crichton Royal Institution for 1851, says—"Among the persons added to the community during the past year is a person who confesses that he forced his entrance into a court of justice by means of a drawn sword; another who boasts that immediately on his liberation he will sacrifice to his lust of vengeance or power one cotton-lord and a family of weavers; a lady who paints herself in the darkest and most hideous colours; another female who admits herself to be a thug, in fact, and an

* 'Malad. Ment.,' vol. ii, p. 102.

† See Blandford's 'Insanity and its Treatment,' p. 173.

infanticide in intention; and a philosopher who holds massacre to be the right of the strong. These self-accusations are in whole or in part hallucinations. Their absurdity, grotesqueness, and inconsistency with the original disposition of the individual, is a principal proof of their fabulousness, and protect from legal consequences, but at the same time do not separate the condition of mind under which they arise and are perpetuated by any broad line from that which may precede, attend, or follow the actual commission of the atrocities imagined."*

"M. N—, aged twenty-one years, constitutionally sad and morose, and the moral faculties but slightly developed. At eighteen he was increasingly sad, but neither his conversation nor his actions indicated insanity, but he declared that he felt a sort of impulse which led him to murder, and that there were moments when it would afford him pleasure to shed the blood of his sister or to stab his mother. When the horrible character of such desires and the penalties attached to their gratification were pointed out to him, he calmly replied, 'At such times I am not master of my will.' More than once, after embracing his mother, he became flushed, his eyes flashed, and he cried, 'Mother, save yourself, I am going to cut your throat.' Soon after which he was calm, shed tears, and withdrew. For six months, during which this young man was tyrannised over by this horrible impulse, he slept little, suffered from his head, was averse to seeing any one, was insensible to the annoyances of his family, but manifested no sign of a disordered understanding in his conversation. He had no delusion, and had no motive for these acts. After eighteen months' treatment in an asylum he lost the homicidal impulse, returned home, and did not relapse."†

There is a case reported at length by Dr. Skae in the 'Report of the Morningside Asylum,' for 1850, of a female who was tormented by "a simple abstract desire to kill, or rather, for it took a specific form, to strangle," without any disorder of her intellectual powers, and who "deplored in piteous terms the horrible propensity under which she laboured."

* 'Report for 1851,' p. 16.

† 'Gazette des Tribunaux,' September 18th, 1838; Marc, vol. ii, p. 35. Other cases are given by Marc, vol. i, pp. 49, 56, 161, 241—243, 248, 317, and vol. ii, p. 27, 71, 92, 97, 112. See 'Journal of Mental Science,' vol. iii, p. 346.

"An old lady," says Dr. Maudsley in an article upon homicidal insanity, "more than seventy years old, for the most part lies back in an easy chair, with her eyes closed and moaning as though in great affliction. She might seem incapable of any exertion; every now and then, however, she suddenly jumps up, without any warning, and rushes upon her daughter with the design of strangling her. When this paroxysm comes on, two people can scarcely hold her, but as soon as it is over she sinks down utterly exhausted and panting, says, "There! there! I told you you would not believe how bad I was.'"*

The case of W. D—, which is reported by Dr. Crichton Browne, is one of interest.

"He was admitted into the asylum (Derby County) under the escort of three powerful men, so dangerous was he considered. He had been previously in confinement in Bethlehem Hospital, London, from which he was discharged uncured. During his residence there, to judge from his own description, he had been labouring under melancholia. Since his discharge he had resided at home, and had there taken considerable quantities of morphia to relieve the depression of spirits under which he laboured. He had been perfectly manageable until within a few days of his admission into the Derby Asylum, when he became more than usually miserable, and began to manifest destructive tendencies. He had several times made desperate and determined attempts to murder the men who were placed in charge of him, and had nearly succeeded in strangling one. He was a hale stout man, of neuro-lymphatic temperament, pale and anæmic, with an expression of great wretchedness, and a small and feeble pulse. Soon after his arrival he made several attacks upon the attendants, warning them first to beware of him, for he felt he must 'be at their throats.' D— was perfectly aware of the painful nature of his position, mourned over his insanity, and especially over his homicidal desires, which he stated that he only experienced in paroxysms. These paroxysms were very frequent when he was first placed under observation, but gradually diminished in number. He at first conversed freely about his homicidal tendencies, and the incontrollable inclination which he felt to tear his clothes and break windows, but as he improved, and as these past away, he appeared ashamed of them, and ultimately repudiated

* 'Journal of Mental Science,' vol. ix, p. 337.

them altogether. When he did speak of them he declared that they were quite inexplicable to him, and that they had no connection which he could discover with his desponding state of mind."*

A case has come under our own notice. It was that of a woman whose insanity was indicated simply by an insane desire to throw her children into the fire. Her husband had been unfaithful to her and to his marriage vows, and that circumstance brought on mental depression. So horrible was the temptation, so persistently did it tyrannise over her, and so powerful did it become, that she was unwilling to trust to her own power to resist, and placed herself in a lunatic asylum. In this case the homicidal impulse was accompanied with a desire to do herself an injury. She disliked seeing a knife, as it tempted her to commit suicide. She had prayed to be freed from these temptations. Such a temptation seems to warrant the name that has been given to them, of "reflex motives." The facility seems to make the desire. There is a reciprocity betwixt matter and spirit.†

M. H— ‡ was admitted into the West Riding Asylum upon the 12th December, 1867. The medical man who signed the certificate observed that she was constantly stupefied or muddled, that she was occasionally vicious, that she assured him she had a desire to murder her boy, and that when that feeling came over her she found it almost impossible to restrain herself. She was forty-nine years of age, she had been in the workhouse, and the insanity had continued eight days before her admission.

When she became an inmate of the asylum she had a delusion of hearing. She heard a voice, and believed it was the voice of the devil. The voice urged her to destroy her son as Samson destroyed the lion. There was no other symptom of insanity. She upon one occasion manifested a tendency to excitement, and that was after having had an interview with her husband and children. On the 11th of April, 1868, her bodily health was improved, and there

* 'Journal of Mental Science,' vol. ix, p. 208.

† An interesting case of homicidal insanity is given by Dr. Lockhart Robertson in the 'Journal of Mental Science' for July, 1860. See also 'Psychological Journal,' vol. iii, pp. 49, 51, 465, and vol. iv, p. 560; and Rex *v.* Brixey, 'Med. Gazette,' vol. xxxvi, pp. 166, 247; Reg *v.* Stowell, 'Med. Gazette,' vol. xlvii, p. 569; and 'Journal of Mental Science,' vol. xiii, p. 548.

‡ For the two cases which follow I am indebted to the kindness which placed the Case-Books of the West Riding Asylum at my disposal.

was decided improvement of her mental condition. She no longer heard the voice, and had ceased to fear that she might be impelled to do some criminal act. She subsequently became industrious and cheerful, and expressed a wish to return home. She was discharged upon the 29th of April, 1869.

P. S— was 29 years of age, and a Jewess. She was admitted into the West Riding Asylum upon the 12th day of June, 1869. The medical man who signed the certificate stated that he had observed despondency; that her friends informed him of the fact that she was sleepless and rambled about during the night, and she confessed that she was constantly tempted to destroy her children. She had been confined about four months previous to her admission. Her recovery had been rapid up to the eleventh day after the confinement, when she ate some cabbage, which brought on diarrhœa, from which she has suffered at intervals since that time. The history of this case seems to be that, while she was in bed, a neighbour came to see her, and told her about a story she had seen in a newspaper of a woman who had burned her child. From that time forth she suffered, at intervals, from an insane impulse to destroy her youngest child by pulling out its tongue with her hands, and after a time the same desire influenced her with regard to all her other children. She gave a reason for the peculiar form of the infanticide meditated. She said that she had once known a man with a bad tongue which had to be operated on, and it was that circumstance which gave her the idea of pulling out her children's tongues. At the time of the impulse she was quite clear as regarded other things, was conscious of all that was going on around her, and, with this exception, was perfectly calm and sane. She complained of headache and numbness in the head, and when she had the murderous tendency she suffered from pain and palpitation of the heart. She also assured those about her that she had disagreeable dreams, and often thought that she was going to be hanged; she was also nervous; at one time was liable to illusions of sight, but she never thoroughly believed in them, and it was only when she was very weak that she had these illusions. They were of rats and monkeys, and were suggested by the circumstances of her environment. The house she had lived in was infested with rats. There was insanity in the family. Her mother had suffered from puerperal melancholia for two years, and a sister had been insane.

She tested her own recovery; assured the medical officers that she had seen and kissed little children without a recurrence of the murderous tendency. She ultimately recovered, and was discharged upon the 5th October, 1869.

This is certainly a most interesting case, and illustrates the theory we have advanced. Here we find the omnipotence of simple suggestion over a weak mind. First, the suggestion of the killing; the neighbour's story excites the desire to kill, and the remembrance of the man who had disease of the tongue, and who was operated upon in consequence of that disease, suggests the way in which this insane impulse should be externalised. Besides, in this case we have the peculiar character of irresistibility at the same time that we have an oppressive feeling of the unlawfulness of the act. So much did this idea of the unlawfulness oppress her that she carried the idea into her sleep, and often dreamed that she was going to be hanged. No case could better illustrate the principles laid down above. No case could be more instructive with regard to the relations which insane persons who labour under partial moral mania occupy with regard to the State.

CHAPTER IX.

THE LEGAL RELATIONS OF MANIA.

When an individual is incapable of judging of the legal character of his acts by reason of acute mental disease, he is irresponsible for those acts should they contravene the criminal law, and he is held incompetent of entering into such acts where they only amount to civil transactions. The consideration of mania in its various phases has already indicated under what circumstances this form of mental disease will deprive a man of his civil ability or of his criminal responsibility. Still, a little more may be added here, as it is, perhaps, more easy to appreciate the legal relations of acts when they are separated from those medical relations in connection with which they have been already partially considered.

In all civil matters, if a man can be shown "to be *non compos mentis*, the law avoids his act, though it cannot be traced to or connected with the morbid imagination which constitutes his disease, and which may be extremely partial in its influence on conduct." But in criminal cases it is not enough to prove a man *non compos*, for responsibility simply means liability to punishment, and there is always held to be liability to punishment when the existence of intention, will, and malice can be proved. Now, in many kinds and degrees of insanity one or more of these attributes of the concept crime can be shown to be absent, and in that way the supposition of the criminality of an act is rebutted. It is evident that the existence or non-existence of these three mental tendencies, as demonstrated by the conduct of the accused, is a question for the jury.

It is evident that the plea of insanity can be raised in any criminal inquiry; but as it is sometimes thought better to undergo a slight sentence for a minor offence rather than be kept in prison at her Majesty's pleasure, it is practically only set up in cases of a graver

character. This naturally leads to a question as to whether the present mode of dealing with the persons of lunatics who have committed a crime is altogether satisfactory. In this place, however, we cannot discuss the question, and may only mention that in Scotland a somewhat curious and reasonable departure from the ordinary mode of procedure has been adopted. There a party who committed murder and was found to be insane was delivered over to private custody on caution to the amount of £200, to prevent him doing harm to himself or others.* The plea may be occasionally pleaded even in minor cases, where the position or rank of the individual who has committed the act, the quality of which is in question, are such as would suffer materially by incarceration in a prison. But in most criminal cases the defence is generally one of simple passive silence, or some assertion, when the prisoners are asked to say whether they are guilty or not guilty, that "they don't know anything about it." There is some reason in declining to raise this plea for the defence when the detention upon the ground of irresponsibility would be a more severe punishment than the reward for the crime on the ground of responsibility would amount to.† But this is no ground why the prosecution should not in all cases take cognizance of the insanity of an accused person, for the object of criminal jurisprudence is the protection of the lives and properties of the people, and not the apportioning a minor sentence to such as plead guilty of an offence which in the truest sense they did not actually commit. If any judge advised the withdrawal of the plea in a case where an individual was being tried for a felonious assault upon the ground that if the plea were admitted the accused would probably undergo a much longer imprisonment than if on conviction he received the legal punishment for the offence, which we can scarcely believe, it was certainly a very ill-considered recommendation. What would be the result? Suppose that in this case the man was really mad and irresponsible for the offence for which he was indicted, and for which the plea of insanity, being in accordance with the recommendation of the judge, was withdrawn, he was sentenced to eighteen months' imprisonment.‡ He undergoes eighteen months' imprisonment. Such treatment is

* Campbell, 18 November, 1830, s. (Inst.) 236. See also Douglas, 21 January, 1831, s. (Inst.) 236.

† R. *v.* Reynolds, Bodmin Summer Ass., 1843.

‡ Taylor's 'Medical Jurisprudence,' p. 1094.

calculated, according to the opinion of all those who are conversant with mental disease, to aggravate the insanity. He may possibly during his confinement assault a warder, and if the one punishment (the imprisonment) is useless, and that is the ground upon which all punishment of the insane is condemned, the punishment incurred by this breach of prison discipline is also useless. But everything that is useless is not harmless; indeed, we would rather say that everything that is not useful is harmful. So this second punishment, this punishment within a punishment, is highly detrimental, and when the individual has "done" his eighteen months' and goes out into the world, he is more insane than when he went into prison, and the law lets him loose upon society. If he makes another assault and kills some one, who is to blame? The law! The system of the raising of this plea is at present unsatisfactory.

All that will be necessary for our purpose here will be the consideration of the connection of this plea with regard to one class of acts, as the careful consideration of the peculiar forms of mania which lead to the commission of acts of a certain character will indicate in what way the rules here laid down have to be modified with relation to any other criminal offences.

It is quite evident that in many cases of mania no question of responsibility can arise. If a maniac breaks a dozen windows, our anger is turned not against him, but against those who had the charge of him. We ask, "Why was he allowed to do it?" We know that the manifestation of our anger would have no effect upon the lunatic himself, and experience has taught us to regard all manifestations under such circumstances as useless and absurd. If a stone hurts us we at once direct our anger against the person who threw it, although the natural feeling is to resent the injury, and to vent the feelings of anger and resentment upon the proximate cause of the suffering. This is proved by the fact that children will kick the furniture. So our experience has taught us that it is utterly absurd to punish lunatics who are in a state of acute mania, as the experience of men has convinced them that it is stupid to be angry with a table which falls on their feet. It is evident that the only difficulty which can arise with regard to questions of responsibility in relation to mania must be in connection with those cases in which the disease is only in one of the earlier stages, or where it is in one of its partial forms. It is also true that much difficulty has, in times

past, arisen in connection with moral mania. It is necessary, however, for the sake of convenience to consider the medico-legal questions connected with each of these forms of disease separately. With regard, then, to general intellectual mania no question as to responsibility can arise. We shall, however, consider the civil ability of those who are maniacal in another place. With regard to partial intellectual mania it seems to us reasonable that the insanity which does exist should relieve from responsibility only in case the act, which would otherwise bring the individual within the criminal law, is connected with the erroneous impressions which are traceable to disease. We have seen that for many purposes the monomaniac must be regarded as a sane man. We shall see hereafter that he must be allowed to exercise many of his privileges as a subject, and it is only reasonable to argue that he should be held responsible for many of his acts. A man who believes that he sees a decollated head is not thereby incapacitated from selling an estate, and if that man puts his hand into a neighbour's pocket and takes his handkerchief, there seems to be no reason why he should not suffer the penalty for larceny. Again, suppose a man to imagine that his own father was compassing his death, and if he believed that the only way to preserve his life was by knocking down his father, there is every reason why he should not be punished for assault; the prominent argument being that had any sane man been placed in the real position in which the monomaniac believed himself placed, he would have done exactly what the insane man did. Now the law would not have held the sane man guilty of assault, and as the maniac's beliefs are as real to him as the perceptions of the sane man are to him, it would be very unjust to punish him. That the connection between the insane delusion and the quasi-criminal act is almost invariably close and easily distinguished, makes the carrying out of this view, which has been urged as the correct one by Foderè and Hoffbauer, exceedingly easy. Many medical jurists have, however, argued that it is not by any means easy to trace the connection between any idea and any act in a sane mind, and that the difficulty is infinitely increased when the mind is diseased. Georget has said, "In conversing with patients on topics foreign to their morbid delusions, you will generally find no difference between them and other people. They not only deal in common-place notions, but are capable of appreciating new facts and trains of reasoning. Still

more, they retain their sense of good and evil, right and wrong, and of social usages to such a degree, that whenever they forget their moral sufferings and delusions they conduct themselves in their meetings as they otherwise would have done, inquiring with interest for one another's health, and maintaining the ordinary observance of society. They have special reasons even for regarding themselves with a degree of complacency; for the most part, they believe that they are victims of arbitrary measures, fraudulent contrivances, and projects of vengeance or cupidity, and thus they sympathise with one another in their common misfortunes. Accordingly the inmates of lunatic asylums are rarely known to commit those reprehensible acts which are regarded as crimes when dictated by sound mind, though the most of them enjoy considerable freedom. They often talk very sensibly of their interests, and some even manage their property perfectly well.

"Those patients who are insane on one point only, more or less limited, may have experienced some severe moral disorders which influence the conduct and actions of the individual without materially impairing his judgment. Those who conduct themselves so well in the asylum in the midst of strangers with whom they have no relations, and against whom they have conceived no prejudice nor cause of complaint, and in quiet submission to the rule of the house, are no sooner at liberty in the bosom of their families than their conduct becomes insupportable; they are irritated by the slightest contradiction, abusing and threatening those who address the slightest observation to them, and working themselves up to the most intolerable excesses. And whether the reprehensible acts they commit are really foreign to the predominant idea or not, ought we to make a being responsible for them whose *moral* nature is so deeply affected?"* From this statement of what he considers to be facts he infers that it would be unjust to punish the monomaniac for his criminal acts, while it is just to *allow him* to retain his civil ability. Now in some respects the statement is not correct, and in every respect the inference is erroneous. The statement that lunatics in an asylum sympathise with each other on account of the consciousness of common misfortunes is not borne out by our own experience or by that of some of those whom we have consulted and who have had the amplest means of verification or refutation. With

* 'Discussion Medico-légal sur la Folie,' p. 10.

regard, then, to the inference he draws, is it not evident that it is the discipline of the asylum that produces the effects he describes, and that it is the laxity of home or the houses of friends or relatives that leads the insane to those annoying excesses of which he speaks. The best child can be spoiled. "It's own way" is bad for a child or a lunatic, and yet Georget proposes to remove these very persons from the operation of that large system of discipline in a country which is called the criminal law, after proving their liability to be influenced by motives. This is surely a peculiar mode of procedure. In opposition to these views we would point out that the possibility of influencing motives is the ground or meaning of punishment, and that wherever the threat of punishment might have, but has not, influenced the conduct of an individual, there on every ground of law and justice is punishment due. The objection that it is certain, as has already been admitted, that a monomaniac is not as good a man as he was before the occurrence of the disease, that his mental force is not so great, and that therefore, even although the act is not connected with the prominent delusion, he is still less capable than he was in times past to judge of the relative value of motives, and the reasons from refraining from his act, has occurred to us and has been considered by us. The assertion is evidently true, but if the law was to consider the relative power of different individuals to judge of motives no such thing as justice could ever be done. A grocer who made up his mind to sell *exactly* a pound of sugar would never succeed in doing it, and his first mercantile transaction would occupy him a whole lifetime, and even then his efforts would not be crowned with success. It is well for those who would get through the world at all comfortably to be content with what *will do*. The absolute is a will-o'-the-wisp; so it is with laws, we must be content with what is "enough." Any laws which laid down an absolutely just code of enactments, containing punishments to be awarded in all cases according to the actual moral responsibility of the individual, would be much too good for earth. We must be content with a law which will punish a Shakespeare or a Milton if he commits a crime, very much as if he were a chaw-bacon. We have seen how the law stands with regard to erroneous beliefs, and we have pointed out the defects, but we have admitted that it is on the whole satisfactory to find from the answers of the judges, already alluded to,*

* Ante, p. 17.

that when a person under an insane delusion as to existing facts commits an offence, in consequence of such delusion, he shall be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real. It has been objected to this principle that it is based on the notion that insane persons reason correctly from wrong premises, and that this conception is erroneous. But it is not so; it is founded on a belief that insane persons who labour under monomania are capable of reasoning in every way like sane men upon all the subjects which are unconnected with their delusion. And that this fact can be proved by a hundred examples is beyond a doubt. Now, this doctrine takes for granted the possibility of these individuals being influenced by the fear of punishment or the hope of immunity. And this being the case all the elements are present which constitute legal responsibility for criminal acts.

Another objection has been urged against this theory of the responsibility of the insane. It is argued that if a man kills his neighbour because he believes that his neighbour spat in his face, or insulted him, and although the fact of the delusion is admitted, the man suffers punishment because he would not have been justified in killing the neighbour if the injury actually had been done, that that is unjust. The reason given for this opinion is that the utter want of proportion which exists between the insult and the retribution is itself indicative of the insanity of the act. But it is surely impossible for law to admit such an excuse. *Ex hypothesi*, the man is monomaniac. If general moral mania could be proved, the question would have to be argued on other principles. But in this case the man is admitted to be a monomaniac; to have a prejudice in the flesh. He believes he has been insulted, and he kills the man he imagines offered him the rudeness. Now, the belief is insane by admission; but there is surely nothing insane in the want of proportion between an offence and its resentment. The mere fact of such a disproportion cannot be admitted as an indication of the insane character of the act. Were it so, we would invariably find the provocation infinitesimal in all cases of crime. But the smallness of the motive in relation to the gravity of the act proves nothing but a carelessness of consequences, or an expectation of immunity from punishment. We have seen tyrants take off their subjects' heads for reasons which to us seem insignificant, and only upon account of the impossibility of their

being called to account. And we have seen many men who were undoubtedly of sound mind commit crimes after real injuries, when the disproportion was quite as startling as that in the supposititious case alluded to above. There can be no reason for admitting such an argument as in the least degree relevant. If there is an insane impulse besides the delusion, then there might be some reason for admitting irresponsibility, but in a case of simple monomania, such an exculpatory plea is not to be thought of for a moment. Those who would have us believe in such a doctrine are either stupid, or would try to win an admission by means of that mental legerdemain, a shifting premiss.

That there has been much diversity in the practice of criminal courts in England with regard to the administration of punishment, and the admission of irresponsibility in cases in which the plea of insanity has been pleaded, is true. But there always is much diversity in the practice of criminal courts. We have ourselves seen a man sentenced to ten years' penal servitude for stealing a few lozenges, and we have seen a man, for setting fire to two haystacks out of ill will to the owner, sentenced to five years' penal servitude. It seems to us, after a somewhat careful examination of this subject, that definite principles, be they right or wrong, which do exist in relation to questions of responsibility, have guided the decisions in these cases, as much as the principles in connection with any other technical matters have guided the discussions in respect of those. After all, our institution of trial by jury is not perfect. Many errors are incident to all human tribunals. But we find that many of the errors which courts of law may have committed, are in the main due to the very defective condition of the knowledge of medical men concerning insanity, and the very inefficient way in which they have frequently given their evidence in courts of law, and the complaints which many medical men make of the unsatisfactory state of the law, only show their ignorance of the able judgments of Sir John Nichol, who has laid down the most admirable principles for the guidance of those who would recognise insanity, and know what the law will recognise as such, in connection with a series of analyses of much complicated technical evidence, which indicate a more intelligent mastery of the subject than is to be found in any medical book as yet published.

We are now in a position to consider the relations of those who suffer from general or partial intellectual mania, to the civil law.

1. A lunatic who commits a trespass on the person or property of others is, by the common law, held to be liable to an action for damages. There can be no dispute as to the excellence of this principle. It may be true that the individual is utterly unconscious of the damage he has done; he may be in such a morbid mental condition as to be incapable of guiding his acts in any way, and some people who look at one side of a subject may say is it fair he should, when he becomes sane again, be deprived of all his property to meet the claims of those he has injured during his insanity. But the case stands thus:—A maniac, who does not know what he is doing, injures the property of a sane man who does not know what the maniac is doing, and the question is which of these shall suffer. It is evident that in many cases where injuries to the persons or properties of others is done by insane persons, the insane person is in some measure culpable. In many cases, individuals are aware that insanity is coming on, and they are therefore in a position to take precautions against any evil consequences which may arise during the continuance of the disease. This is proved by many of the cases which have been quoted. It takes place even in relation to impulsive insanity, which gives the least warning of its coming. And we find persons warning others to save themselves by getting out of their way, and others voluntarily placing themselves under restraint. Now, if a lunatic is aware of the imminence of the disease, and does nothing to avoid consequences which may arise from diseased impressions, he is to a certain extent culpable. In such a case it is evident that the insane person should be made to recompense any one that he has injured in person or property during the continuance of the diseased condition. But even where this is not the case, the common law principle is consistent with equity and justice. Why should a man suffer because he is sane, and have immunity because he is insane?

In most cases of lunacy, as we have seen, the individual is not unaware what he is about, and, as the fact that many can conceal their insanity proves, have a thorough knowledge of and are able to appreciate the value attaching to motives. That such persons should be protected by reason of the existence of mental unsoundness is

certainly absurd. In all cases of partial insanity these arguments have still greater force.

2. Nothing is more common than to find persons who are undoubtedly insane managing their own affairs with much practical ability. We have seen that individuals labouring under general intellectual mania are not utterly incapable of doing certain duties, and we have also seen that many persons who were, so to speak, remarkable for sanity, have yet suffered from illusions of the senses, as Pascal or Swedenborg, or have been conscious of delusions, as Goethe or Ben Jonson. Now, there are many people who are only insane in so far as one series of beliefs are concerned. They may not otherwise have the peculiarly strong minds that were in those men we mention, and owing to that circumstance they may, with the same or a similar delusion, be madder than any one of these men were. Just as the same disease is a very different thing to two men, one having a bad and the other a good constitution. But still, even those persons who may be classified as monomaniacs, and distinguished from those persons who have illusions which they know to be illusions, or illusions in a healthy mind, are in many respects quite capable of doing all their duties as citizens, and of conducting their own affairs. Suppose a man has a delusion connected with the sense of hearing. Suppose he imagines he hears the rustling of a silk dress—and men of the highest culture may be affected in this way—is it to be argued for a moment that such an individual is thus incapacitated from any of the acts of civil ownership, while many of the peasantry, who are unable to read or write, believing in the most degrading superstitions, such as that the wells are poisoned during epidemics and the like, are to be allowed in every way to exercise those rights to which they are entitled as members of a civil community? Any such theory is untenable. A much more rational principle is that insanity only invalidates a civil act when such comes within the range of the mental impressions which are due to disease. Let us examine this point in relation to some decided cases. Perhaps it will be well, as we are not in this place writing a complete treatise upon the law of lunacy, to limit our attention to one question, and we will therefore consider how the capacity to make a will is modified by the existence of insanity. We need not look at the question of the capacity of those who are labouring under a complete or general mental aberration. This subject will be con-

sidered in connection with dementia, and it is evident that this will be as convenient an arrangement, for it is a matter of no consequence to the law in what way the utter mental confusion arises, whether it be from increased or diminished mental activity, so that it does arise. In this place, then, we shall consider the connection between testamentary capacity and monomania.

The case of Dew *v.* Clark* is interesting in connection with this subject. The will of a person who had left personal property amounting to £40,000, was called in question on the ground that the testator (Scott) was insane. The plaintiff was the testator's own daughter, to whom only a life interest in a small sum had been bequeathed, while the bulk of the property had been left to his nephews. It was proved that the testator had manifested a morbid dislike and aversion to his daughter. He used to descant upon her vices, her sullen, perverse, and obstinate disposition, and accuse her of faults of which she could not possibly be guilty. His conduct towards her was proved to be inhuman; and it was satisfactorily shown that there was no real cause for all this unnatural feeling. The court, therefore, in delivering its judgment, said, that the issue was not "whether the deceased's insanity in certain other particulars, as proved by the daughter, should not have the effect of defeating a will generally of the deceased, or even this identical will, but whether his insanity on the subject of his daughter should have the effect of defeating, not so much *any* will (a will generally) of the deceased, as this identical will." And as it was held to be proved that this identical will was the direct result of the morbid delusions which were shown to have existed, it was set aside.

Two cases are of interest in this connection, that of Waring *v.* Waring,† and that of Smith *v.* Tibbett.‡ In the first of these cases the Judicial Committee of the Privy Council, and in the second case Lord Penzance, have laid down a doctrine, according to which any degree of mental unsoundness, however slight, and however unconnected with the testamentary disposition in question, must be held fatal to the capacity of the testator. Both of these were, however, cases of general, not of partial insanity; in both the delusions were multifarious, and of the wildest and most irrational character, abundantly indicating that the mind was diseased throughout. In

* 3 Adams Rep., p. 79. † 6 Moo. P. C. 341.
‡ Law Rep. 1 P. and M, 398.

both there was an insane suspicion or dislike of persons who should have been objects of affection, and what is still more important in both, it was palpable that the delusions must have influenced the testamentary dispositions impugned. "In both these cases," says Cockburn, C. J., "there existed ample grounds for setting aside the will without resorting to the doctrine in question."*

It is at once to be admitted that when, as in the case of Dew *v.* Clark,† an individual labours under a delusion, which is likely to influence the testamentary disposition, such a state of mind should be held fatal to the instrument. Thus, in the case of Greenwood *v.* Greenwood,‡ it was proved that the testator having during an illness received a draught from the hand of his brother, he continued to believe, even after the delirium had passed away, that his brother had administered poison, with the view of destroying him. This insane belief led to the execution of the will, which was disputed, and by means of which instrument the brother alluded to was disinherited. This is by no means an uncommon form of insanity. Monomaniacs frequently believe that they are persecuted, and any such act as the administration of medicine, which is generally the duty of some near relation, will become connected with their morbid beliefs, and may lead to the execution of a will excluding those persons from the enjoyment of right and property, who would, had the testator been of sound mind, have been the first objects of his bounty. In such cases the rule which applies to construction of wills with respect to the testator's intention should be had regard to, and that intention should be evidenced by acts done, and words spoken before the delusion that influenced the disposition appeared. This rule is at the foundation of the principles of law with regard to the validity of wills and to the succession to property. Such rules must, if they are to be good, be founded upon ordinary feelings of human nature. But the question which naturally arises is, whether a delusion, which can have had no influence upon the testamentary disposition, should be held to deprive the individual labouring under it of the capacity of making a will. This is evidently a question of the utmost importance.

The Roman law is as defective upon this subject as our own was

* Banks *v.* Goodfellow. Law Rep., vol. 5, Q. B., 549.

† 3 Add 79, and Haggard's Rep. of Judgment.

‡ 3 Cent App. xxx.

until a very recent date. French writers are very much divided with regard to this question. M. Troplong* and M. Sacase† have adopted the opinion that the mind is a unity, and have argued from this doctrine that if it is diseased in part, it is diseased as a whole. To us it seems as reasonable to argue that a man who is prejudiced with regard to any one subject cannot reasonably believe in any other, or that, as it may with as much truth be asserted, that as body and spirit are a unity, a man with the toothache is deprived of his capacity to dispose of his property by will. On the other hand, however, Legrand de Saulle‡ asserts that "hallucinations are not a sufficient obstacle to the power of making a will, if they have exercised no influence on the conduct of the testator, have not altered his affections, or prevented the fulfilment of his social and domestic duties; while, on the other hand, the will of a person affected by an insane delusion ought not to be admitted if he has disinherited his family without cause, or looked on his relations as enemies, or accused them of seeking to poison him, or the like. In all such cases where the delusion exercises a fatal influence on the acts of the person affected, the condition of the testamentary power fails, the will of the party is no longer under the guidance of reason —it becomes the creature of his insane delusion."§ It is quite necessary, in order thoroughly to understand this subject, to understand the principles upon which the law allows men to dispose of their property by will, and the reasons which have induced the modification of these principles, in cases where insanity causes incapacity, ought to be appreciated. It is certain that every right which is given to a man by law is given upon the understanding that it shall be exercised under a sense of moral obligation and responsibility. It is such a sense that makes the exercise of all privileges a benefit to the individual, to his neighbours, and to the state. So it

* 'Le Droit Civil Explgné. Commentaire sur le donations vefs et testaments,' tom. ii, § 451—7.

† 'La Folie Considérée dans ses Rapports avec la capacité civil,' p. 16.

‡ 'La Folie devant les Tribunaux,' p. 146.

§ Hoffbauer, in his Médicine Légale. Paris and Foublanque, 'Med. Jurisprudence,' i, 302. M. Demolombe in his 'Cours de Code Napoleon,' liv. iii, tit. 2, ch. ii, § 339; M. Castlenau in his 'Sur l'Interdiction des Aliéné;' Dr. Ray in his 'Med. Jurisprudence,' § 178; and Maygorri in his 'Institutizioni di diretto civile Italiano,' have argued in a similar manner.

is in the right to make a will. The law takes it for granted that the ordinary sentiments of mankind will lead men to the proper exercise of this power. The proper exercise of this power is evidently in most cases a matter of no difficulty. A man, when he anticipates death, has a pleasure in feeling that what he had no wish to use himself will be enjoyed by others. There is no selfishness in true love. So it happens that a man leaves his property to those who are nearest and dearest to him. Nature makes those persons who are bound by the ties of relationship dearer to a man than others who are not. There is a natural duty which affection turns to pleasure, which makes it right for a man to support his children while they are still too young to be able to support themselves, and it is an extension of this feeling which makes a man leave his property to his children when he dies. Any admirable laws of succession ought to be founded on such facts of human nature, and not upon arbitrary views as to what may be right and good for the advancement of a country. Were it not that men are almost invariably led by their feelings and affections, by their sense of justice and moral obligation to do what is right, this privilege would not have been conferred on them by law. Law could have undertaken the distribution of all property upon the death of every individual, as it at present does in cases of intestacy. But there are excellent reasons why this was not done. Equality is not justice; and the law, in dividing property, must give equally to all in a certain degree, or it must indulge in arbitrary divisions, such as we find in primogeniture, in gavelkind, or in borough English, in relation to real property. But it is evident that any of these may do much injustice, which would not be done if a man had the disposition of his own property. For one person may already be provided for; one may have had large sums expended on education, on advancement in life, while others had not yet come to that time of life when similar acts done in their favour would become possible. Besides, while the law would find it difficult to recognise the claims of necessity, such as age, sex, infirmity, and the like, and could not be cognisant of friendship, love, tried service, long-standing obligations, which are also claims, the man himself could recognise and reward these, as they undoubtedly deserve to be recognised and rewarded. Besides, this power is a most important right incident to the possession of property. If a man had not power to recognise love and affection, to reward duty

done, and worthy conduct, who would respect the old man when he came to be weak? Human nature has an abhorrence of weakness. In some nations they put the aged to death. "We do not count a man's years until he has nothing else to count."* But with us age is not a reason for neglect, and weakness is a reason for more kindly attention. "It is one of the painful consequences of extreme old age," says Chancellor Kent, "that it ceases to excite interest, and is apt to be left solitary and neglected. The control which the law still gives a man over the disposal of his property is one of the most efficient means by which he has, in protracted life, to command the attentions due to his infirmities."† For these reasons, then, the possession of the power of disposition is evidently one of value to those to whom it is intrusted, and of importance to the interests of all. As the respect which is continued to a man in consequence of this power, even when he is in extreme old age, is an incentive to the acquisition of wealth, and to the practice of prudence and forethought which accompany thrift and frugality, the English law, then, leaves everything to the unfettered discretion of the testator, upon the principles above alluded to. But it is essential to the exercise of such a power that the individual to whom it is intrusted should be in a condition to understand the nature of the dispository act and appreciate its effects, that he should know what property he has to dispose of, the claims that are upon him, and their relative importance, and should desire that his property should be disposed of in a certain manner. In order that this may be so, it is necessary that no false impressions should exist in his mind at the time of the testamentary act, whether they be induced by the force or fraud of an individual, or by the direr force or fraud of a diseased mind. That disease may, as we have seen in other places, deprive the individual of all knowledge as to his surroundings; it may warp and pervert his affections; it may obliterate his sense of moral obligation, of justice, of truth; it may change, without other cause, love to hate, friendship to enmity; it may deprive him of all desire as to the disposition of his property, and all knowledge of the amount or extent of the property of which he has a right to dispose. We have in this way arrived at a certain standard, which will enable us in all cases to ascertain the amount of mental power which is

* Emerson's 'Society and Solitude,' p. 270.

† Van Alst *v.* Hunter, 5 Johnson, N. Y. Ch. Rep., p. 159.

necessary to constitute the capacity of disposing of property by will. And this is true, whether the incapacity is produced by means of moral or intellectual mania—by means of imbecility or dementia.

This principle has been followed in a recent case in which the question as to whether a delusion, which was not calculated to influence the disposition of property, should be held to invalidate the capacity was tried. In every respect the judgment in this case is most instructive. The case referred to is that of Banks *against* Goodfellow.* The facts in this case were these: the testator had been confined as a lunatic for some months in 1841, and he remained subject to delusions that he was personally molested by a man who had been dead for years, and that he was pursued by evil spirits whom he believed to be visibly present, and it was proved that these delusions had existed between 1841 and the date of the will, and also between that date and the testator's death in 1865. Some contradictory evidence was given, as is usual in such cases, as to the testator's capacity to manage his own affairs, but it was admitted that at times he was incapable of making a will. The question which was left to the jury was whether at the time of making the will the testator was capable of having such knowledge and appreciation of facts, was so far master of his intentions, and free from delusions, as would enable him to have a will of his own in the disposition of his property, and act upon it, and they were directed that the mere fact of the testator's being able to recollect things, or to converse rationally on some subjects, or to manage some business, would not be sufficient to show he was sane, while on the other hand slowness, feebleness, and eccentricities would not be sufficient to show he was insane; and that the whole burden of showing that the testator was fit at the time was on the party claiming under the will. Lord Cockburn, C.J., in delivering judgment, said that "it was necessary to consider how far such a degree of unsoundness of mind as is involved in the delusions under which this testator laboured would be fatal to testamentary capacity; in other words, whether delusions arising from mental disease, but not calculated to prevent the exercise of those faculties essential to the making of a will, or to interfere with the consideration of the matters which should be weighed and taken into account on such an occasion, and which delusions had, in point of fact, no influence

* Law Rep., vol. 5, Q. B., 549.

whatever on the testamentary disposition in question, are sufficient to deprive a testator of testamentary capacity and to invalidate a will." He then examined the evidence which was adduced in proof of the existence of partial insanity, and after an exhaustive consideration of what has been said by the text writers in this and other countries concerning this subject, he proceeded to consider some of the cases which have been decided in English and American courts of law in which questions of capacity have been raised. In the course of his judgment he said, "No doubt when the fact that the testator had been subject to any insane delusion is established a will should be regarded with great distrust, and every presumption should in the first instance be made against it. When insane delusion has once been shown to have existed it may be difficult to say whether the mental disorder may not possibly have extended beyond the particular form, or instance, in which it has manifested itself. It may be equally difficult to say how far the delusion may not have influenced the testator in the particular disposal of his property; and the presumption against a will made under such circumstances becomes additionally strong where the will is, to use the term of the civilians, an inofficious one, that is to say, one in which natural affection and the claims of near relationship have been disregarded. But when in the result the jury are satisfied that the delusion has not affected the general faculties of the mind, and can have had no effect upon the will, we see no sufficient reason why the testator should be held to have lost his right to make a will, or why a will made under such circumstances should not be upheld. Such an inquiry may involve, it is true, considerable difficulty, and require much nicety of discrimination, but we see no reason to think that it is beyond the power of judicial investigation and decision, or may not be disposed of by a jury directed or guided by a judge. In the case before us two delusions disturbed the mind of the testator, the one that he was pursued by spirits, the other, that a man long since dead came personally to molest him. Neither of these delusions, the dead man not having been in any way connected with him, had, or could have had, any influence upon him in disposing of his property. Under these circumstances, then, we see no ground for holding the will to be invalid." The rule therefore which was applied for on the ground that the judge misdirected the jury, and that the verdict was against the weight of evidence, was discharged.

In this way this very difficult and much disputed question has been set at rest. With regard to the legal relations of the partially insane it may be said generally that they should be left in possession of every civil right that they are not clearly incapable of exercising, but at the same time they ought not lightly to be subjected to the performance of duties involving the interests and happiness of others. We see no reason, however, for saying that in no case shall a monomaniac occupy a position implying a fiduciary character, such as becoming a guardian or trustee, but we would recommend great caution before duties which, if not properly performed, may involve others in unhappiness and discomfort, is thrust upon those who may be unable to discharge them efficiently.

It will be evident that the principles which have been laid down with reference to the connection between a delusion entertained and the validity of the act performed will not apply with regard to the contract of marriage. Just as we have seen the mere answering of simple questions, the carrying on of a common-place conversation, will not prove the existence of sufficient sanity and capacity to make a will, neither will the ability to understand the ordinary process of the act of marriage, the capacity to go with usual accuracy through a well-known service, prove anything with regard to the real ability of the individual to enter into the contract. The essence of all contracts is consent, and a man who is about to enter into a contract of marriage must understand the new relation which the consummation of this contract creates; he must understand the responsibilities which it imposes, and the duties the performance of which it involves. Unless the individual can appreciate these things he cannot be said to be in a position to give a rational consent, without which the contract will be invalid. In regard to other contracts the capacity of monomaniacs may be undoubted, for in most contracts the thing to be given, or the act to be done or to be refrained from, is perfectly definite, and there is little possibility of any misunderstanding. But this is not the case with regard to marriage, and just in proportion to the difficulty with which, owing to the complicated nature of the duties and privileges of the married state, the character of this act can be understood, so ought to be the rarity of the cases in which persons labouring under partial insanity should enter upon it. Sir John Nicholl has well said concerning this subject, "going through the ceremony was not

sufficient to establish the capacity of the party, and that foolish, crazy persons might be instructed to go through the formality of the ceremony though wholly incapable of understanding the marriage contract."* It is clear that this is the correct view to take of this question, for the very nature of a contract implies that both parties know what they agree to, and if it can be proved that, owing to delusions upon the part of one of the contracting parties, there has been a want of mutuality, the contract evidently becomes of none effect.

* Browning *v.* Reane; 2 Phill. Ecc. Rep., 69. See also Turner *v.* Meyers; 1 Hagg. con Rep., 441. Parker *v.* Parker, 1 Hagg. C. R., 417; Ellis *v.* Bowman, 17 Law T., 11; R. *v.* Kelly; Shelf on Lun., 2nd ed., 515; Inst. Juris Con., b. 2, t. 12, and 15 Geo. II, c. 30. See Private Acts, 23 Geo. II, c. 6.

CHAPTER X.

ON THE LEGAL RELATIONS OF MORAL MANIA.

The plan by which the construction of this work was determined was necessarily departed from in connection with moral or emotional insanity, and concerning the legal relations of the various forms of this disease. In this place a few general statements, embodying in a more abstract form the concrete principles already adverted to, will be all that is necessary to our object. The great difficulty in connection with this subject is, the discrepancy which seems to exist between the assertion that the intellectual powers are not directly affected, that the individual is able to understand what is right and what is wrong, what is commanded and what is forbidden, and that yet many medical men hold that on account of the existence of this emotional insanity the individuals ought to be held civilly incapable and criminally irresponsible. This seems to be a departure from the principles stated upon the authority of so many able medical jurists, viz. that the mind can be affected in one part without being affected in all; it seems to be a return to the doctrine that mind is a unity, whatever it may mean, and that, therefore, a disease of any part is a disease of the whole. In connection with this subject it may be well to quote the recent utterances of a learned judge.*

"It is not given to man," he says, "to fathom the mystery of the human intelligence, or to ascertain the constitution of our sentient and intelligent being. But whatever may be its essence, every one must be conscious that the faculties and functions of mind are various and distinct as are the powers and functions of our physical

* Per Cockburn, C. J., Law Rep., vol. v, p. 549, Q. B.

organisation. The senses, the instincts, the affections, the passions, the moral qualities, the will, perception, thought, reason, imagination, memory, are so many distinct faculties or functions of mind. The pathology of mental disease, and the experience of insanity in its various forms, teach us that while, on the one hand, all the faculties, moral and intellectual, may be involved in one common ruin, as in the case of the raving maniac; in other instances one or more only of these faculties or functions may be disordered, while the rest are left unimpaired and undisturbed; that while the mind may be overpowered by delusions which utterly demoralise it, and unfit it for the perception of the true nature of surrounding things, or for the discharge of the common obligations of life, there often are delusions which, though the offspring of mental disease, and so far constituting insanity, yet leave the individual in all other respects rational, and capable of transacting the ordinary affairs and fulfilling the duties and obligations incidental to the various relations of life. No doubt when delusions exist which have no foundation in reality, and spring only from a diseased and morbid condition of the mind, to that extent the mind must necessarily be taken to be unsound, just as the body, if any of its parts or functions is affected by local disease, may be said to be unsound, though all its other members may be healthy and their powers or functions unimpaired."

Although the reader may possibly differ from this opinion in so far as the phenomenology of mind is concerned, and question the statement as to whether "will, perception, thought, and reason are distinct faculties or functions," still, it will be admitted that the statement is correct on the whole, and is entirely satisfactory with regard to the recognition of partial insanity by law. The question, however, for us is, whether, if this is true of intellectual aberrations, it is not also true of morbid manifestations of moral qualities?

One thing must be remembered with regard to this subject, and that is, that every man is very like a steam-engine, and that every brain, like a boiler, has just a certain power. If a man overworks his viscera, he must underwork his brain. If he goes in for physical labour, he must be content to go without ideas. There is a deep physiological truth in the statement that a man "cannot serve God and mammon." So it is in habitual direction. Energy always takes the easy road. The easy road is the one which has

been trodden. Habit is the maker of paths. Thus it comes that he who would cultivate one faculty must generally let another lie fallow. Leonardo da Vinci was an uncommon man. Shakespeare might have been Newton or Laplace, but he could not have been Shakespeare too. A man who wishes to be skilful in one thing must neglect others. The whole theory of the process of natural selection is founded on this principle. This is true of any mental direction of energy, of any acquired skill—one faculty suffers because the other is advantaged. This follows from the fact that a man has just so much energy to make use of and no more; that it is, in other words, a constant quantity. Now, where energy is manifested under the influence of disease, where a channel is made by abnormal conditions through which energy flows, this must necessarily alter the relation of other faculties to the supply of energy which they enjoyed in the healthy state. Automatic movements require energy. When Johnson touched all the lamp-posts in Fleet Street, there was no diminution of the amount of his thought, but there was a development of energy too great to be employed in the continuation of certain changing mental states, and which found vent in certain easy muscular motions. So a person who is insane, who may be said to think automatically, may have too great a flow of energy to be employed in healthy mental exercise, and it therefore manifests itself in eccentricity of conduct and speech. But when the flow through those new channels has become continuous, when habits of energy have been confirmed, these very acts become powers in the life of the individual—they not only take surplus energy, but they demand energy where there is no overflow. To trace this distinction between eccentricity and insanity, suppose that the above explanation of Dr. Johnson's habit to be correct, then, whenever from length of custom this habit of touching the lamp-posts in Fleet Street began to demand energy—whenever this waste-pipe for overflow became a "main" for consumption—eccentricity had become insanity. Thus, suppose Johnson had little enough energy to continue any series of mental states; suppose that strong emotion demanded, and was capable of using, all the energy which could be developed at the time, in the sane man, this automatic act ceases. In the insane man there is a demand for energy by this channel, and in spite of the emotion this incongruous act is indulged in. In this way it will be seen that any abnormal demand for energy must influence other facul-

ties, which would otherwise have had their supply, just as any supply of energy to a skilful part of the organism for the time deprives other parts of the energy necessary to their functions. Thus it would seem that no disease, however partial in its manifestation, say, for instance, the case quoted from Trousseau, of the gentleman who had an irresistible desire to shout, could exist in the human mind without modifying the direction of energy in some degree. This is actually true, but it is equally true that if an aerolite falls to earth, the earth has actually moved out of its orbit to meet it. The one is, in most cases of medical psychology, as worthy of consideration as the other is in questions of astronomy. And the fact, for all the purposes of law, might be that one faculty only was affected, and that the others could perform their functions exactly as they did when the mind was healthy. The legal maxim that the law does not trouble itself about trifles, might be applied to some arguments which medical psychologists have advanced in all seriousness. The doctrine of the law with regard to monomania has been fully explained, and it seems to us that the doctrine of the law with regard to partial moral mania ought to be exactly similar. There are slight differences, but these are easily explained. Thus, if a man takes property, believing it to be his own, we have seen that he will not be held guilty of theft. If, then, this theft had sprung from any disorder of the emotional part of a man's character, instead of being due to a delusion; if it had arisen from an absolute inability to be influenced by ordinary motives, and if this is satisfactorily proved, then it seems to us to be upon a footing with the case just put, and the responsibility seems to us to be as great in the one case as in the other. This doctrine will hold true with regard to all criminal acts. Whether the crime be larceny or homicide, it may equally arise from morbid disease. And yet great caution is to be exercised, for the existence of insanity does not preclude the contemporaneous existence of crime. And a person who has delusions with regard to property may have a criminal intention with regard to the life of another; and if he executed that intention, he ought to suffer punishment, notwithstanding the existence of kleptomania. Again, on the other hand, care is to be taken, in deciding such a case, to ascertain whether the partial insanity has not passed into general emotional insanity, in which case the individual might not be in a position to be influenced by any ordinary

motives which the law could supply, and he ought, therefore, to be held irresponsible for the criminal outrage.

With regard to the civil ability of men labouring under any form of partial moral insanity, we would, as in the case of monomania, assert that they should be allowed to exercise all their civil privileges which they are not clearly incapable of exercising without hurt to themselves or others; and they ought, at the same time, to be deprived of the exercise of every civil right which they are incapable of performing without injuring the interests of others, or doing harm to themselves. Thus, it would have been ridiculous to deprive the gentleman we have mentioned, who was in the habit of stealing towels, of his right to exercise the franchise, to represent his county in parliament, or to manage his own estate. On the other hand, any one who, like the woman mentioned in an earlier part of this work, had an irresistible desire to throw her children in the fire, would be ineligible for the place of a nurse, and no contract entered into with her for such services would be binding upon the contractor. Still she ought—under due precautions—to be allowed to perform other duties of which she was clearly deemed capable. And, as boys get certificates from their school- or other masters to say of what they are capable, so might those persons have certificates from reliable medical gentlemen with reference to their capability of certain works, and their faithful performance of certain duties. Of course a person who is morally insane is liable for any damage done to the persons or property of others. Thus, a kleptomaniac would be liable for the price of anything he stole if the article could not be restored to its rightful owner, and even if it were restored, he ought to be held liable for all the expenses incurred in its recovery, and for any actual loss caused by its absence. Wherever the insane acts are of such a nature as to deprive others of their peace and happiness, to which they have a right in virtue of their membership of a social body, then restraint, and, if necessary, confinement in a lunatic asylum ought to be resorted to. On the other hand, we need hardly, after what we have already advanced on this subject, say that punishment for crimes which directly result from the morbid condition is useless and unjust. There are cases of moral insanity, however, in which the fear of punishment will restrain from the commission of crime. But where it will it generally has, and therefore we find the insane tendency manifested

with regard to the appropriation of useless and valueless articles, the theft of which would scarcely constitute the crime of larceny. In all cases, therefore, the tests which have been already suggested are applicable to cases of moral mania. The test so frequently laid down with regard to the moral conceptions of the individual has as often been shown to be of little use. Many of the morally insane are capable of understanding the difference between right and wrong, but there is much difference between understanding the simple meaning of a proposition as stated, and the existence of that proposition as a rule of life. Words are all very well, but they are often apart from a life. A man may be able to understand a command in one sense and not in another. He may be unable to make a rule applicable to his own conduct. Thus, the Bosges man, who thought it was right in him to steal the wives of other men, and wrong in others to steal his own wife, had not sufficient intelligence to comprehend any real distinction. Now, many persons are in a similar position with regard to moral facts, sometimes, as in the case of the moral idiot, from want of mental power to enable them to understand these relations, and sometimes, as in moral mania, from an entire distortion of the faculties which appreciate moral distinctions—a distortion brought about not by positive defect existing in early life, but which is due to the incursion of organic disease. In all these cases, then, where, through any of these defects or aberrations, the individual is made incapable either of understanding the right and wrong, the commanded and forbidden, the rewarded or punished, or where, understanding these as abstract propositions, he is unable to make them influence his lives, the individual should be held irresponsible in relation to any acts which may be within the influence of these morbid impressions. But where the individual is able to understand, and capable of applying, these principles to his conduct for a guide, and yet does not do so, there we have moral turpitude and not moral imbecility or mania. In such a case the individual is a criminal and ought to be punished. In the light of this fuller and truer statement of a test of responsibility, the utterances of many of the judges look meagre, shallow, and unscientific.

Thus, Tracy, J., in 1723* said that only a total deprivation of understanding and a want of knowledge of what he is doing would relieve an individual from responsibility. Lord Mansfield, C. J.,†

* Arnold's case, 16 vol. Howell's St. Tr., pp. 764, 765.

† Bellingham's case, Old Bailey, 15 May, 1817; 1 Coll. on Lun., 636.

laid down the principle that responsibility was to be tested by a knowledge of right and wrong, and a knowledge that the crime committed was against the law of God and nature. So Le Blanc, J.,* and Lord Lyndhurst† have indulged in similar definitions. And in a more recent case, the Lord Justice Clerk (Hope), after having warned the jury "not to allow themselves to be led away by the false notions of insanity which seem to be creeping, if not into courts of justice, at least into moral discussions elsewhere," said, "the question for your consideration is, whether the party had any notion that the act was one of which the law would take cognisance, for that is the only test which a jury is at liberty to take."‡ And these principles seem to have been followed with considerable slavishness both in England and Scotland. Only in one or two cases of which we have already spoken has a truer test been had recourse to—a test which will admit, in some cases, the irresponsibility of those who are only morally insane.

The principles above alluded to may have some influence in the determination of those who are worthy of punishment and those whom it is useless to punish.

* Bowler's case, Old Bailey, 2nd July, 1812. See 1 Coll. on Lun., p. 673; Annual Reg., 54 vol., p. 309.

† Offord's case; see 'Suppl. to Criminal Statutes,' by Collyer, p. 680; 5 Carr *v.* Payne, 168.

‡ Arkley's 'Rep. of Justiciary Cases,' p. 288.

CHAPTER XI.

DEMENTIA AND ITS LEGAL RELATIONS.

Dementia is due to exhaustion and torpor of mind. It is attended with general enfeeblement of all the faculties. The mental house is in ruins. It is the return of chaos which education had conquered. Cultivation makes a wilderness a garden, but a time may come when it becomes a wilderness again—

> "Last scene of all,
> That ends this strange, eventful history,
> Is second childishness and mere oblivion:
> Sans teeth, sans eyes, sans taste, sans everything."

That is dementia. But this enfeeblement is not unfrequently an earlier scene in the history of a life. The dénouement is hastened by disease. This general enfeeblement of a man's intellectual and moral nature may be brought on by disease, although it sometimes seems to be little more than the exaggerated decrepitude of extreme old age. There is really not much practical difficulty in distinguishing between this disease and that of imbecility or idiocy. As we have seen, idiocy, and probably imbecility, is congenital, and, to return to our metaphor, these might be compared to a barren land which could not be cultivated, or which, at best, with much labour would yield but a scanty stunted crop. Idiocy is not a mental loss, because a man cannot be said to lose what he never had—it is a sort of natural destitution of mind. Dementia is the loss of powers which were in possession, and were capable of development. But still the result is very much the same. The later stages of dementia very closely resemble the more marked degrees of idiocy. In the other stages there is little difficulty in distinguishing between these two forms of mental defect. It is not difficult to distinguish a

house which the builders have left before it was completed from one which has been partially pulled down; so it is with these two diseases. In the one it is the poverty of a fortune which never was achieved, in the other it is the poverty of a fortune which has been broken down. Dementia never appears until the age of puberty, and it is progressive in its gradual obliteration of mind, which ends in blank fatuity. The thorough coherence of thought is a condition of strong health. A great man is a man who reasons correctly about great subjects, but a languid incoherence is the characteristic mental condition of persons labouring under dementia. It is such incoherence as is caused by a lack of energy to think, the incoherence of mania is due to the inordinate excitement and energy which is the spring of action. "The defect in naturals" (idiots), says Locke, "seems to proceed from want of quickness, activity, and motion in the intellectual faculties."* There is a disorder of idleness, and a disorder traceable to business. It is not one faculty that is decayed, every faculty is enfeebled. It is a state of general effeteness. Memory suffers, the past is forgotten, and what is remembered by the dement resembles what a sane man remembers of his dreams. Those parts of the past which live in him are those which are most remote from the present. The circumstances which occurred previous to the inception of the disease are remembered long after recent events have passed out of the keeping of memory. Attention, which we have somewhere called the focusing of that camera, mind, is impossible to the dement. Dementia is the inertia of rest, mania the inertia of motion. When the power of concentrating consciousness is lost, all possibility of mental improvement is gone, and where there is no possibility of improvement there is almost a certainty of deterioration. As a reason for all this there are pathological changes going on in the brain, and a post-mortem examination will frequently disclose lesion of structure, and diminutions of size, which will have a closer relation to the stage of the disease at which death took place. Nothing is more curious than the gradual enfeeblement and impairment of many of the bodily functions in consequence of the disease which exists in the brain or nervous centres. It is certain that it is the mind that keeps the body alive as well as makes the body rich. This may truly be, because it is use that keeps the functions in

* 'Essay on the Understanding,' b. ii, c. 12, s. 13.

repair, as it is use keeps a lock from rusting; but as it is the mind that dictates the use, our assertion is none the less true.

One circumstance must be remembered, and that is, that dementia is not simply an enfeeblement exactly similar to the mental infirmity of extreme old age. Even in old age there are pathological changes going on which account for the mental symptoms of old ages drivelling, but that these pathological changes are not the same as those which exist in cases of dementia is certain. Death is a natural thing at a certain age. A man is wound up to go for a certain time, as a watch is; to grow and blossom at a certain season, and wither at another like a plant; but if some untoward circumstance limits his threescore and ten years, as if the watch stopped before its time, we might fairly regard the limitation or the stoppage as unnatural, using that word in its narrowest conventional sense. Now, so it is with old age as compared with dementia. Old age is life coming to its natural end; the watch is run out. But dementia is something more; it is the occurrence of circumstances inimical to life other than those which may be classed under the phrase premature old age. There is an actual derangement of mind. In old age the senses are the first part of a man to fail; the infirmity creeps inwards. In dementia it is the inner sense which first manifests decrepitude. The infirmity spreads outwards. In dementia memory fails before sight is affected. The man forgets everything that happened yesterday or last week; he forgets people's names; and it is scarcely in the same way that an old man's memory is defective. The old man is puzzled; he knows he has forgotten the name. He institutes a search in memory, and cannot succeed in recovering the name, but the dement may probably be altogether lethargic, or give a name to the individual which really belonged to some acquaintance of times long since passed. The derangement of the mind of the dement is strikingly displayed if we examine any of his thoughts in relation to the laws of association. We are strongly impressed with the belief that in health we find, as it were, the type of every mental disease. Error is only a part of a truth taken for the whole, as Cousin observes, but even in truth we find this same tendency under the name of a figure of speech, which is called synecdoche. So it is in the above question, the disease is really found in the health just as the error is in the truth. We find some healthy propensity exaggerated, and that is a disease. Now, in examining the

relation of dementia to one of the most curious of mental laws, we will find an example of this principle. Sir William Hamilton, while speaking of the laws of association, tells how once when he thought of Ben Lomond he immediately afterwards thought of the organisation of the Prussian army, and it was only after some time that he was able to trace the connection between these two ideas. He remembered, however, that upon one occasion when he had clambered up out of the world, as it were, upon that Babel of a hill, that he met at the top a Prussian officer. This, he says, was the link between those two somewhat widely separated thoughts. This, then, seems to be a condition of the healthy action of mind that two thoughts may appear in association without, at the same time, forcing upon the attention the associating thought. As a man may remember he has a wife without reasoning directly from the fact of his marriage. Now, in dementia what seems to be spontaneity in ideas is to be accounted for by the absolute forgetfulness of the intermediate associations. Sir William, by taking thought, was able to recall the memory of the Prussian officer and his relation to the idea of Ben Lomond. The individual who suffers from dementia is unable to recall the intermediate thoughts by any effort of will; indeed, he is unable to make the effort which would be necessary. Such an explanation as this explains philosophically the incoherence which exists in dementia, for spontaneity of thought is a kind of incoherence. Is it not in this fact that the truth of the observation of the close connection which exists between eccentricity and genius lies?

But it is the coherence of thought that is the coherence of nature. To the dement the world soon becomes unintelligible. Familiar objects are not recognised. Places in which he has resided are mistaken for other places; times are forgotten; the future is not, the present is a haze, the past is dim. He cannot keep these shades separate from one another. He confounds the past of to-day with the past of yesterday. The extraordinary power of similarity in objects has become useless as a means of recognition. All general terms have disappeared, and in this analysis of decay we may study the synthesis of language and its relations to thought, just as in the dead world of stone we read of the evolution of life and the progress of perfecting humanity. The whole of these impressions have become confused. The order

which is in nature has left it. The world seems crumbling to them. All the most important bones of thought, such as the indissoluble relation between cause and effect, identity and difference, concrete and abstract, have become friable, or have disappeared. The whole of the intellectual powers have decayed. The individual is no longer able to follow a conversation. He is drifted along by his thoughts, and he scarcely knows what these are. When he speaks he may use single words—meaningless fragments of sentences. And then may come the last stage of all, that dire, desolate "sans everything."

Sometimes, however, as a result of the process of the dissociation of ideas (for all dissociation arises out of defective association) delusions arise, or illusions haunt the eyes and ears, but they are generally transitory and stupid. Occupations are no longer practised; the individual is either full of purposeless restlessness, or remains at rest for hours or weeks empty of everything. They gaze, but do not see; they have ears, but do not hear. They sit or stand, motionless, cold, like stones; like statues, made to depict hideous wrecks of men; occasionally they will laugh or cry, or mutter meaningless nothings. Sometimes they become incoherently eloquent, and pour forth profuse jargon. But it is to be remembered that dementia is liable to be complicated by attacks of mania, as if even waters could give forth fire. The mania of dementia may well be thought of in relation to real activity of the brain, as the phosphorescence of the sea is thought of in relation to real fire. It is fire which we can wash in; it is fire we can sail in; it is fire in waves instead of flames; it is as if one element had forgotten its nature, and by some strange metamorphosis become another. So it is with the paroxysmal mania which occurs occasionally during the progress of dementia.

It is strange how much the good decays while the bad flourishes. The devil is always the last to quit the sinking ship. Weakness is possibly not compatible with goodness, and some of those persons who have become noted for their appreciation of character have utterly failed to appreciate this true element of excellence. Mr. Thackeray has made all his good characters stupid! This is surely a mistake in art. So it is that dements are even in later stages of the disease very often irascible and obstinate; they have lost the power of being enthusiastic in a good cause, they could not

persevere in well-doing. They are lethargic even in their bad qualities. Sometimes the wicked are active enough. All these mental changes which are manifested in conduct are not without their vestiges in the medium through which conduct becomes actual, the flesh. The eye of a dement is generally dull, and moistened with tears. It is slow in its movements, and gives one the impression of a bull'seye without the light. The skin is generally pale and dry and wrinkled, the pupils dilated, the expression an empty, uncertain, wandering one. The cheeks are hollow, and the frame generally emaciated. There is an inordinate appetite for food, but the organic functions are not much affected. Dementia is not infrequently found complicated by the presence of paralysis or other diseases of the nervous system.

Dementia is either *acute* or *chronic*. The first of these is exceedingly rare, so much so that the utility of the distinction has been doubted. When it does exist it is marked by profound melancholy or stupor. It is more rapid in its progress, and its stages are not so clearly distinguishable from one another. It may be due to fevers, hæmorrhages, metastases, or suppression of the customary evacuations. It is generally the more curable form of this disease, but it may pass into acute mania. It is presumably caused by softening or other chronic disease of brain. Chronic dementia is very common; it is in this form of dementia that we find the incoherence which we have already described. It may result from apoplexy, epilepsy, drunkenness, or mania. It very frequently follows masturbation or excessive indulgence in sexual intercourse. It is often simply due to excessive indulgence in life; it is a decay and derangement very often incident to old age. We have already pointed out that this is not simply the ordinary decay of age. There is a clear distinction to be drawn between these two conditions, and it is necessary that this distinction should be borne in mind, because no allegation is more common in courts of law than that all the symptoms mentioned in proof of the existence of dementia are only the indications of that "breaking up" which is due to the ordinary decay of age. To be able to distinguish between these is therefore a matter of much importance. The stages in dementia which Pritchard has indicated crudely by the words forgetfulness, irrationality, incomprehension, and inappetency, are in many cases clearly distinguished from one another, while in some cases they are unrecognisable. When

dementia occurs in aged persons it is called *senile* dementia. It is characterised by all the features which we have described, inactivity, incoherence, stupidity, followed by mere oblivion. It is a loss of friend, of places, of the world; it is a loss of mental life. In dementia the centripetal force of mind seems to have overcome the centrifugal, in mania the centrifugal seems to have proved too strong for the centripetal. It is only in the balance of these that mental health consists, as it is on the balance of these that planetary safety depends. Rational life seems to lie between mania and dementia. It is the temperate zone of a sphere of which these are the arctic and the torrid regions. Man lives between these, as he is a "pendulum betwixt a smile and a tear."

As in all other diseases the characteristics of its course and progress have a certain relation to the cause. This is not peculiar to dementia. It is, however, sometimes well marked in cases of dementia which arise from mental shock. It is only what one would expect to find. That a cause lives in its effect, as the features of a father live in his children, is the most natural of all things.

Novelty, which to the young is often one of the conditions of the most perfect health and activity, is often, in those who have grown old, a cause of dementia. The entire change of a man's life, a man's retirement from business which has occupied him for many years, the existence of empty habits, so to speak, the impossibility which exists in old age to reform one's life in conformity with other circumstances, very frequently predispose to this disease. And as rest after habitual labour causes this disease, so some unwonted exertion after long continued rest will not unfrequently have the same effect. This, of course, is more likely to occur where the constitution has become weakened by continued ill health or dissipation. Old age is a weakness, and it is weakness which is a prey to disease.

If all these symptoms are taken into consideration in any case which may raise the question as to the presence of dementia, as to its distinction from imbecility, from mania, or from simple old age, little difficulty can we imagine arise in giving a satisfactory answer. As all thought is by contrast, as when we think of "one" we have to think of its "other," as light could not be known without darkness; so we, having still to consider the prominent characteristics of mania, hope that this subject may be made still clearer by the considerations which will naturally arise in the course of that inquiry.

The legal relations of dementia.—There is a somewhat dire simplicity in the decision of the question as to the legal relations of persons labouring under senile dementia in the last stage. In such cases there is no difficulty. It is with regard to the validity of acts done during the earlier stages of the disease, or with regard to the responsibility of the individuals for acts committed while the disease is in an incipient state, that there will be the most doubt. It is with regard to cases of this kind that most disputes arise in courts of law; and the question as to sanity or insanity not unfrequently arises in connection with the capacity of an individual to make a will. Not only may the weakness incident to dementia be pleaded directly as a reason for the belief that at the time the will was made the individual had not the "disposing power" required by law, but it may be pleaded indirectly to show that upon account of this mental deficiency the testator was probably subjected to a control or influence by interested persons; and that control is incompatible with the ordinary test of capacity, that a person be considered of disposing mind who knows the nature of the act which he is performing, and is fully aware of its consequences.

It has sometimes been thought that even in cases of dementia a brightening of the faculties occurred just before death, and that in this way the disposing power might return to a man even after it had been long in abeyance. There is very little foundation for the belief that this happens except in the rarest cases. The ordinary common error, that all insane men become sane before they die may have had something to do with this belief. That it is an error no one who has been present at the death beds of the insane can for a moment doubt. Some of those old prejudices were pretty enough, but so are the ruins of abbeys; and it is as unhealthy to live in the one as it is to live in the other.

With regard, then, to the incapacity of dements to make wills it appears that an inquisition finding a man a lunatic is primâ facia evidence of insanity existing during the whole period covered by the inquisition. But it does not preclude proof that the will was executed during a lucid interval.*

* Hall *v.* Warren, 9 Ves., 605; Re Watts, 1 Curt. 594 (and see Creagh *v.* Blood, 2 J. & Lat., 509; Snooks *v.* Watts, 11 Beav, 105; Cook *v.* Cholmondely, 2 Mas. and G. 22; Banatyne *v.* Banatyne, 16 Jur. 864); see Sir W. Wynn, Judgment in Cartwright *v.* Cartwright, 1 Phillim., 100.

It is not necessary to incapacitate a man that he should be in such a state as to justify a commission of lunacy being taken out against him. A man may be unequal to the important act of disposing of his property by will, although he is not utterly void of reason.* For it is not sufficient that a testator should be corporally present if he is mentally absent when he signs a will.†

But when there has been no commission how is the question of capacity to be decided? Sir J. Wilde (now Lord Penzance) in pronouncing judgment in the case of West *v.* Sylvester, against a will propounded as that of the deceased, who was an aged lady, said, "At the time she executed the will of October, 1863, although for many purposes she might be said to be in her right senses, she was, nevertheless, suffering from that failure and decrepitude of memory which prevented her having present to her mind the proper objects of her bounty, and selecting those she wished to partake of it." Dr. Alfred Taylor quotes the following note, for which he says he is indebted to a learned judge. "Another condition may be noticed which often occurs in the experience of lawyers, and to which medical men in attendance on aged persons do not sufficiently attend. A person's mind in extreme old age may be quite intelligent, his understanding of business clear, his competency to converse upon and transact such undoubted, and his bodily strength good; but there may grow upon him a fear and dread of relatives or servants who may have surrounded him, and on whom he may have become perfectly dependent, that his nervous system is wholly overcome so that he has no power to exert his mind in opposition to their wishes, or to resist their importunities. His mind is enslaved by his fear and a feeling of helplessness so that to that extent, and in matters in which he may be moved by them, he really is facile and imbecile. This state of things seems to be easily brought on in old age, when the faculties are otherwise entire, and the bodily strength considerable. This state of a party's mind at a great age was exibited in a remarkable case from Scotland, which went to the House of Lords."‡

It has been suggested that as a test of capacity in these cases the testator should be made to repeat from memory the leading provi-

* Mountain *v.* Bennet, 1 Cox, 3 & 6; Lord Donegal's case; 2 Ves. Sen., 407.

† Right *v.* Price, 1 Doug. 241.

‡ 'Med. Jurisprudence,' by A. S. Taylor, M.D., F.R.S., p. 1093.

sions of his will.* And this suggestion is in accordance with the law laid down in the case of the Marquess of Winchester,† where it appeared by divers witnesses, and by many notorious circumstances, that the marquess being sick *et multa provectus senectute* was not of sane and perfect memory, such as the law requires at the making of his supposed will." For by law it is not sufficient that the testator be of memory when he makes his will to answer familiar and usual questions, but he ought to have a disposing memory, so that he is able to make a disposition of his lands with understanding and reason, and that is such a memory as the law calls sane and perfect memory. It has been decided that sane memory for the making of a will does not exist in all cases where the party can speak "yea" or "no," or has life in him; nor when he can answer to anything with sense, but he ought to have judgment to discern and to be of perfect memory.‡

Some mention of one or two other cases will be found useful. In the case of Greenwood *v.* Greenwood,§ an action brought to recover estates under a will the validity of which was disputed, the principal indication of insanity relied on being a strange aversion on the part of the testator towards his only brother, his heir-at-law, on a groundless suspicion of the latter having attempted to poison him, Lord Kenyon in charging the jury said, "I take it a mind and memory competent to dispose of property when it is a little explained may stand thus:—having that degree of recollection about him that would enable him to look about the property he had to dispose of, and the persons to whom he wished to dispose of it. If he had a power of summoning up his mind so as to know what his property was, and who those persons were that then were the objects of his bounty, then he was competent to make his will."

There is nothing more apt to mislead a jury in cases in which the capacity of a testator is in question than the evidence of witnesses who say that they have had conversations with the deceased. Such conversations, if they come to be inquired into, amount possibly to nothing but an exchange of the ordinary courtesies of life; and upon such proofs of intelligence little or no reliance is to be placed.

* Inderwick's 'Law of Wills,' p. 17.

† 6 Co. Rep., 23 b.

‡ Combe's case, Moore 757, tem. 3 Jac. 1.

§ 3 Curt., App. xxx.

In some of the most advanced states of mental disease, cases in which no question as to the individual's competency to perform civil acts could arise, the insane person is quite capable of answering the ordinary questions which occur in every day intercourse. But we will hereafter see that such is the influence of habit that it is powerful to move people even in sleep, and so it is that a habit of years for a long time resists the progress of disease.

No reliance, then, as a test of the capacity of those who are labouring under dementia in its earlier stages is to be placed in such manifestations.

With regard to the proof of a disposing mind, Brett, J., said, "that it was not sufficient for the testator to understand merely that he was making a will, but they (the jury) had to say whether at the time the will was made the testator had sufficient intelligence to understand substantially the state of his family, and of his affairs, and the disposition of his property, as made by the will, and if he had sufficient power of mind to intend to make such disposition."*

The case of Kindleside *v.* Harrison† is in many respects worthy of careful consideration in connection with this subject, as it gives the *criteria* by which the capacity of a testator is to be examined, especially where there is a mass of contradictory evidence, where the testator is far advanced in years, and where occasional incapacity from violent nervous attacks is admitted; and it shows what weight is to be attached to the mere opinion of witnesses. Andrew Harrison made a will and several codicils; the will and the first four codicils were not opposed, the other codicils were contested. The contested codicils were set up by Mr. Kindleside, who was one of the executors and the residuary legatee named in the will, and they were opposed by Mr. Benjamin Harrison, whose appointment as an executor and the benefits he derived under the will were revoked by these codicils. All these instruments were regularly executed, and the grounds of opposition were, that the deceased laboured under dementia (mental imbecility), so as to be incapable of any testamentary act whatever; and with regard to two of the codicils, it was asserted that they were obtained from the deceased by fraud, circumvention, and importunity.

It was proved that the testator was eighty-six or eighty-eight

* Butterfield *v.* Cure, Leeds Summer Assize, 23 Aug. 1870, Author's own notes,

† 2 Phillim. Rep. 449.

when the contested codicils were made. It was also proved that the deceased was liable to certain nervous attacks, and it was admitted that during these attacks he was incapable of any rational act. The deceased was admitted to be deaf, to be nervous and low-spirited when anything affected him. His eyesight was perfect, his bodily powers were not much impaired. It was proved that he could run upstairs. These points were not controverted.

Thirteen witnesses were examined to prove the incapacity of the testator. Most of them spoke of a failure of memory, of a defective power of recognising people, of his being regarded by those about him as a person of weak mind, and of his appearing to be "lost." But their evidence brought out the fact that he was in many ways vigorous in mind and body and that he was able to transact business without assistance. They were all urgent in expressing their opinion that the testator was of unsound mind, and incapable at the time the contested codicils were made of making a valid testamentary instrument. The evidence of William Taylor is very strongly in favour of the hypothesis that the deceased was in a state of senile dementia at the time the contested codicils were executed; but as the learned judge (Sir John Nicholl) shows, his evidence is not altogether to be relied upon, and his statements are not consistent with many of the accounts of the testator's condition given by witnesses summoned to prove his incapacity. The allegations made as to his losing his sense of delicacy, his getting up in the night, and his undressing himself in the day, were in effect disproved. The evidence of Mr. Boodle, the solicitor, who had to do with the execution of the codicils, is important. It shows that at the time of their execution Mr. Boodle, although he thought the deceased's memory defective, did not regard him as permanently incapable, and when compared with the evidence of Mrs. Jukes, the medical man, and Mr. Roberts, it appears that any supposition that the testator laboured under such mental defect as to render him incapable of a valid testamentary act is untenable.

It was satisfactorily proved that he was able to settle bills, to draw his own drafts, to write letters, to play cards, to go about by himself, and that he comprehended the state of his affairs; and many of the witnesses summoned in support of the codicils assert that they regarded him as a person of sound mind, whose memory and understanding were unimpaired.

With regard to this part of the case the learned judge says: "Now these accounts, with the bills regularly paid and endorsed, these drafts drawn, these counterchecks registered and marked with the date and sum for which they were drawn, the corresponding entries in the book of expenditure, prove mind and understanding, and thought, judgment, and reflection very strongly, and, in a person of his great age, of a most extraordinary and unusual degree. . . It is proved to my satisfaction that he possessed his mental faculties in an extraordinary degree, considering his great age, and that he had a testamentary capacity quite equal to a testamentary act of no very complicated nature."

As to the allegation that some of the codicils were obtained by fraudulent excitement,* and undue solicitation practised on a weak and unresisting capacity, Sir John Nicholl, after going most carefully into the evidence, decided, upon the whole of the circumstances of the case, that he must proceed to pronounce for the validity of these codicils, which he did with a firm moral conviction that the court was giving effect to the wishes and intentions of a capable testator.†

The question of the other legal consequences of dementia has almost been wholly, although indirectly, answered. The tests which have been given to indicate in what cases persons labouring under dementia can execute a valid will, will apply to cases in which individuals labouring under this disease in the same degree can contract. We have seen what the general law is with regard to the contracts entered into by lunatics,‡ and we have secured a means by which we may judge of who are really to be regarded as lunatics in law; and in this chapter we have shown in what cases those persons who, according to medical men, labour under dementia, come under the legal definition of a lunatic. The whole of the subject has thus been gone over. Neither does the question of the

* Importunity in its correct legal acceptation must be in such a degree as to take away the testator's free agency. It must be such importunity as he is too weak to resist—such as will render the act no longer the act of the testator, in order that it may invalidate the instrument.

† See on this subject some cases decided in the Scotch courts. Watson *v.* Noble's Trs. 18 Nov., 1825; 4 S. 200 (N. E. 202) Aff., 29 June, 1827; 2 W. S., 648; Gellespie *v.* Gellespie, 11 Feb. 1817, 19 F. C., 280; M'Diarmid *v.* M'Diarmid, 17 May, 1820; 4 S. 383 (N. E. 591); Aff. 28 Mar. 1828, 3 W. S., 37; Scott's Frs. *v.* Bannerman, 22 March, 1847; 9 D. 1052.

‡ See ante, p. 193.

responsibility of dements for their criminal acts come prominently before us. We have treated of the subject of the responsibility of those persons who are not of sound mind in other departments of this work, which bear the names of those kinds of insanity in which criminal acts are most frequently the symptoms of disease. Here we need only point out that in the earlier stages of dementia it is quite possible for an individual to commit a crime properly so called, and that it would be well that he should suffer punishment. It may seem very horrible to hang or imprison a man who is going mad, but there is no more injustice in such an act than in hanging or imprisoning a person who is suffering from any bodily disease—say phthisis. We have heard of a man who was about to suffer the extreme penalty of the law, and who requested that the rope might be put under his arms, on the ground that he had a boil on his neck.

That there would be a useless infliction of punishment, which would amount to injustice and inhumanity, if the offender was in one of the more advanced stages of the disease, we admit. Indeed, whenever the simple connection between the act, and the punishment as a consequence of the act, ceases to be appreciable to the mind of the individual, all infliction of punishment should be done away with. But that there should be any hesitation about punishing a man because he is insane, if he understood that the act he committed was criminal, that it was forbidden, that it was punishable, and if he was able to refrain from its commission if he chose, seems to us an utterly unreasonable demand; and we believe that a man may labour under dementia in its first stage, and still know all these things, and have the power to refrain from any criminal act, and may, notwithstanding, commit an act which is criminal. In such a case the insanity is an accident to the crime—not an attribute. When it is the latter only ought it to stand in bar of punishment.

With regard to the power of those persons who are of weak mind to dispose of their property by will, the words of Lord Cockburn, C. J., in the case of Banks *v.* Goodfellow,* are worthy of attention. "In these cases," he says, "it is admitted on all hands that though mental power may be reduced below the ordinary standard, yet, if there be sufficient intelligence to understand and appreciate the testa-

* 'Law Rep.,' vol. v, p. 549.

mentary act in its different bearings, the power to make a will remains. It is enough if, to use the words of Sir Edward Williams, in his work on 'Executors,' "the mental faculties retain sufficient strength fully to comprehend the testamentary act about to be done."* "Non sani tantum," says Voet, in his 'Commentary on the Pandects,'† founding himself on the language of the code,‡ 'sed et in agone mortis positi, seminece ac balbutiente linguâ voluntatem promentes, recte testamentas condunt, si modo mente adhuc valeant.'" His lordship then proceeded to examine the grounds of decision in Harrison *v.* Bowman.§ In this case, which was tried in the United States Circuit Court for the district of New Jersey, the presiding judge laid down the law as follows: "As to the testator's capacity, he must, in the language of the law, have a sound and disposing mind and memory. In other words, he ought to be able to make his will with an understanding of the nature of the business in which he is engaged, a recollection of the property he means to dispose of, the persons who are to be the objects of his bounty, and the manner in which it is to be distributed between them. It is not necessary that he should view his will by the eye of the lawyer, and comprehend its provisions in their legal form, if he has such a mind and memory as will enable him to understand the elements of which it is composed, and the disposition of his property in its simple forms. In deciding upon the capacity of the testator to make his will, it is the soundness of the mind, and not the particular state of the bodily health, that is to be attended to; the latter may be in a state of extreme imbecility, and yet he may possess sufficient understanding to direct how his property shall be disposed of; his capacity may be perfect to dispose of his property by will, and yet very inadequate to the management of business, as, for instance, to make contracts for the purchase or sale of property. For most men at different periods of their lives have meditated upon the subject of the disposition of their property by will, and when called upon to have their intentions committed to writing, they find much less difficulty in declaring their intentions than they could in compre-

* Williamson, 'Executors,' 6 Ed., vol. i. p. 37, n. x.

† Lib. 28, tit. 1, § 36.

‡ Book 6, tit. 23, l. 15.

§ 3 Washington, at p. 585, referred to in Sloan *v.* Maxwell; 2 H. W. Green (New Jersey Ch. Rep.), p. 570.

hending business in some measure new."* And Erskine, J., in the case of Harwood *v.* Baker,† in which case a will had been executed in favour of a second wife, to the exclusion of other members of his family, the testator being in a state of weakened and impaired capacity from disease, producing torpor of the brain, and rendering his mind incapable of exertion unless roused, said, "Their lordships are of opinion that in order to constitute a sound disposing mind, a testator must not only be able to understand that he has, by his will, given the whole of his property to one object of his regard, but he must also have capacity to comprehend the extent of his property, and the nature of the claims of others whom, by his will, he is excluding from all participation in that property, and that the protection of the law is in no cases more needed than it is in those where the mind has been too much enfeebled to comprehend more objects than one, and more especially when that object may be so forced upon the attention of the invalid as to shut out all others that might require consideration. And then, for the question which their lordships propose to decide in this case is, not whether Mr. Baker knew when he executed this will that he was giving all the property to his wife, and excluding all his other relations from any share in it, but whether he was at that time capable of recollecting who those relations were, of understanding their respective claims upon his regard and bounty, and of deliberately forming an intelligent purpose of excluding them from any share of his property. If he had not the capacity required, the property of the disposition made by the will is a matter of no importance. If he had it, the injustice of the exclusion would not affect the validity of the disposition, though the justice or injustice of the disposition might cast down some light upon the question as to his capacity."

* See also Den *v.* Vancleve, 2 Southard, p. 660; Stevens *v.* Vancleve, 4 Washington, p. 267; Sloan *v.* Maxwell, 2 H. W. Green (N. J. Ch. Rep.), 563.

† 3 Moore P. C., p. 282.

CHAPTER XII.

EPILEPSY AND ITS LEGAL RELATIONS.

Lawyers and medical men have not, so far as we know, paid any attention to the legal relations of this disease. The attention which has been paid to this subject has generally consisted in denying that it has any legal relation at all, except in so far as toothache or phthisis may be said to have legal relations. Lawyers at the present time are, it seems to us, prepared to deny that any bodily disease, or any disease simply affecting bodily functions, should in any way alter the relation which an individual bears to the community of which he is a member. Although each disease may have its psychical aspect,—although it may be true that panic is invariably associated with cancer, and that hope is associated with phthisis, yet it would be inexpedient to admit that any such modification of mental health should be considered by law as any disqualification where the exercise of rights is involved, or as any way taking away from the responsibility which a man has where the commission of criminal acts is in question. It would be as reasonable to graduate a man's responsibility with regard to any act in relation to its commission before or after dinner. The question as to whether the existence of epilepsy should be regarded as in any way modifying a man's relations to his fellow men depends upon another question, and that is, Are all epileptics persons of unsound mind? To decide this is, in the first instance, of importance. To answer it, it is necessary to understand what epilepsy really is.

It consists of, or is manifested by, obscured consciousness which follows a premonitory sensation or aura which is an abnormal condition of the cœnœsthesis. This sensation is accompanied by pallor of the face; there is a cry, and then an entire loss of consciousness. The muscles are contracted; the thumb is frequently found pressed

into the palm of the hand by the fingers which are folded firmly over it. The muscles of the face are twisted generally to one side, the sterno-cleido mastoid being convulsed. The eyes and lips are distorted, and the aspect is hideous. Respiration is suspended, the pulse is quick. The pallor of the face is succeeded by flushing, and subsequently the colour deepens to a red purple. The veins of the forehead are swollen, and there is frequently an involuntary discharge of urine, spermatic fluid, and fæces. The mouth generally remains open, the tongue is protruded, the lips are covered with froth and blood, which flows from some wound made by the teeth upon the tongue. On some occasions, however, the teeth are firmly pressed together. This spasm may last from ten to sixty seconds. It is followed by an alternate contraction and relaxation of the muscles, which may continue for one or two minutes. This condition is followed by complete relaxation. There is a deep sigh, stertorous breathing, coma, and a partial or entire unconsciousness even after the coma has passed away. Subsequent to these phenomena a state of mania or of stupidity comes on, and during this stage of the disease the epileptic may be, and often is, dangerous to himself and others. The progress of an attack of epilepsy may be described thus:—at first there is a premonitory susceptibility to external impressions; (2) an aura, affecting some of the external senses; (3) coma; (4) excitement; (5) dementia. During each one of these stages of the epileptic seizure there is more or less abnegation of consciousness, the amount of which may be ascertained subsequently by questions which refer to the acts of the individual, or to the events which occurred at the time. For just in proportion to the defect in memory will be want of power to concentrate consciousness. Where there is no attention the person is unconscious; and some people have gone so far in their admiration of attention as to assert that it alone distinguishes the genius from the booby. Besides this enfeebled power of concentration, other mental powers are partially enfeebled, it may be, owing to the mental defect just alluded to, and there is a considerable change in the disposition of the individual.

All these circumstances are observable in connection with this disease, but it, like other diseases, is capable of infinite diversity in its manifestations; and all or almost none of the symptoms above alluded to may in any individual case be discoverable. It may exist

simply as the mental aura, which has been called *petit mal*. It may be masked, and "there are," says Falret, "certain incomplete attacks of epilepsy which hold a middle place between simple vertigo and the complete attack during which, in the intervals between the convulsions, the patients appear to be conscious of what is passing around. They speak and act in such a manner as to inspire doubt as to the real nature of these attacks, and to attach to what is said and done in this peculiar state of the nervous system a character of moral liberty to which they possess no title. This singular mental condition resembles in many respects somnambulism, and other extraordinary nervous states. It may be equally compared to a state of dream."*

That being the case, it being true that this disease may show itself simply as an involuntary pause, a momentary loss of consciousness, or in connection with convulsions, coma, and maniacal fury, it is necessary to consider the mental condition of those who are liable to epileptiform seizures, and, having arrived at some definite conclusion with regard to the mental state, a consideration of the modification which may be necessary, in the relations of epileptics to their neighbours, will naturally follow.

One thing is certain, and that is, that epilepsy is very frequently associated with insanity. As showing the kind of insanity with which it is most frequently associated, Esquirol has shown that of 339 females in Charenton, 12 were monomaniacs, 30 maniacs, 34 furious, 145 demented, 8 idiots, 50 habitually reasonable, but afflicted with frequent loss of memory, and 60 exhibited no aberration of intelligence.†

Now, although there is a close connection between mental disease and epilepsy, many people would argue that still the epileptic is not necessarily insane. The individual who is liable to epileptic fits is to all appearance in every respect like his fellow men, except at the time of the seizure. He is able to conduct his business; he is able to perform his professional duties; he is able to continue his amusements and pursuits with as much zest, intelligence, and vigour as at any period before the commencement of the disease. It is not incompatible with the possession of transcendent genius, and the advocate of these views would point to Cæsar and Napoleon as

* 'Archiv Gén. de Méd.,' t. xviii.

† 'Maladies Mentales,' t. i, p. 274.

examples of individuals who laboured under epilepsy, and were at the same time famous as no insane men could have been. We have ourselves heard medical psychologists point to the writings of some of those persons who are most popular with the reading public at the present time as full of internal evidence of the existence of epilepsy in the authors. If such statements are true it would be absurd to regard epileptics as insane, and to deprive them of civil privileges or protect them from punishment for criminal acts. But one thing is to be considered, and that is, the mental condition of the individual at the time of the seizure. Although an individual may be, under ordinary circumstances, perfectly sane, still when he is attacked by fever he becomes mad; and just as it is necessary to consider the legal relations of the one, it is necessary to consider the legal relations of the other. It matters very little to law whether the mental excitement and fury which lead to a wrong act be the result of fever or epilepsy so that it be of such a nature as will deprive the individual of those faculties the possession of which constitutes responsibility. But besides the excitement and mania which occur in connection with epilepsy, there are other mental states that may have an important medico-legal aspect. Thus, it is a well-established fact that epilepsy leads to insanity. That a long continuance of epileptic fits will lead to excessive mental weakness and disease amounting to dementia is well understood. But, besides being, as it were, the high road to mental disease, "all authors," says Baillarger, "are agreed in admitting the fact that epilepsy, before leading to complete insanity, produces very important modifications in the intellectual and moral condition of certain patients. These sufferers become susceptible, very irritable, and the slightest motives often induce them to commit acts of violence; all their passions acquire extreme energy;"* and many of these acts of violence are to be ascribed to disease, and not to the influence of ordinary motives. We will consider the stages of an attack of epilepsy in the order of their occurrence. We have seen that these may be roughly divided into three: 1. The conditions premonitory to the attack; 2. The attack itself with the suspension of consciousness; 3. The conditions which occur subsequently.

During the premonitory stage there is generally considerable confusion and perplexity; the patient wanders about without any

* 'Ann. Médico-psych.,' Avril, 1861.

purpose, and indulges in various eccentricities of conduct. In this stage the epileptic scarcely understands what he is doing, and has no internal certainty of the clearness of his perceptions. They not unfrequently have "queer feelings" which they are unable to describe. If the epilepsy is associated with insanity, it is at this period that the peculiar delusions and illusions which are found in connection with epilepsy become most prominent. We have been able to ascertain some of those insane beliefs which exist in the minds of those who are labouring under epilepsy with insanity.

1. W. B— expresses great apprehension lest his head should fall off, and stands for hours holding it on with both his hands. He says it is so unsteady that he is afraid to move, as it would certainly be broken to pieces were it to fall on the floor.

2. A. M— fancies that he is being hung and run over by railway trains. He clutches at his throat, gasps for breath, and complains of being suffocated and drawn out. At other times he screams out that he is being cut in pieces by the wheels, that his arm is wrenched off, and that he is bruised.

3. F. McN— is perpetually being beaten and abused in the most shameful way by one of her companions in the wards. She thinks that her bones are broken, and that her body is covered with bruises.

4. J. S— thinks he is dead and buried, and that it is only a phantom that is filling his place.

5. T. D— thinks that a little man gets into her head, and produces the fits. She feels him there and also hears him talking.*

6. P— believes that his breath is drawn out of him, that his heart is removed from his breast for a time, squeezed, and replaced. He also maintains that he is visited during the night by God in a white robe, and by three men in smock frocks and masks, who pull his hair.

7. A. S— before the fit comes on thinks that his brain is turned round.

8. J. M— imagines after fits that his body is immersed in a burning fiery furnace.

9. W. A— after the fits declares that his brain is changed into blood.

* Dr. Schupman relates the case of a man who believed himself to be pregnant.

† 'Journal de Psychiatrie;' 11 Cahier, 47 'Ann. Médico-Psych.,' 2nd series, t. i, p. 301.

Now, these insane beliefs are interesting in that they are all connected with ideas of violence, and in considering the relation of epileptics to the state, the fact that all insane impressions existing in epilepsy are coloured by the belief of injury done by an external cause, will be a matter for careful consideration. That this is almost the invariable drift of ideas in persons labouring under insanity and epilepsy will be proved by other cases than those above alluded to. Thus Dr. Sherlock had an epileptic patient under his care who "imagined that she was addressed by men with unbecoming freedom, and scolded with dreadful imprecations, that she was lashed with ropes, and cruelly lacerated, and that she was drawn into painful attitudes by various mechanical contrivances."*

Dr. Browne, late commissioner in lunacy for Scotland, in a paper in the 'Journal of Mental Science'† upon epilepsy, has said, "I have seen a victim rise panic-stricken from sleep, and flee from imaginary foes to imaginary friends. I have heard described strife and struggles and extravagant gestures, which might have as readily dealt death or injury to those around as been expended on the unresisting air. There are facts which show that suicide has been committed under the influence of such seizures." And with a similar tendency it has been shown that the existence of epilepsy is associated with meaningless fear, and that in very many cases the epileptic attacks are produced by terror. There are one or two other insane impressions connected with epilepsy which have an interest for those who would understand the real mental phenomena of this disease. One of these is an illusion of sight or a delusion with regard to blood. In the cases above alluded to, the combination of the two beliefs, the one of personal violence and the other with regard to blood or the colour red, will illustrate this point; and the story given by Mr. Warren‡ of the delusion which existed at the time of an epileptic seizure, that an old woman in a red cloak came and struck the patient with her crutch, is not fiction. One other interesting point is worthy of being noted, and that is, the intense desire which exists in connection with epilepsy to be treated medically for the disease. Epileptics are not content unless something is being done to relieve them from

* 'Report of the Worcester Asylum,' 1856.

† Vol. xi, p. 336.

‡ Diary of a late physician.

their fits. In a case which came under our notice the patient had, with a view of getting rid of his fits, drunk his urine at 12 o'clock each night. He imagined that he had been better for it. But this is not peculiar to one case, it is to be found in all; and if we examine into the history of superstition in connection with disease, we will find that most of the superstitious beliefs, with regard to cures, have reference to the falling sickness. Thus, in Austria it is believed that a murderer's blood cured the disease. In Scotland, within a very few years, cocks have been sacrificed, and gold and silver water has been sprinkled in the name of the Trinity, with a view to the same desirable end. We have ourselves been able to ascertain the details of a case in which incestuous connection was determined on in family council, with a view to the removal of epilepsy which existed in a daughter of the house, and in which, the connection alluded to, resulted in the birth of a child, and not in the cure of the epileptic. This strange method was adopted, and this absurd superstition believed in, in a highly civilised English county within the last few years. We cannot but think that there is some connection between these superstitions and the desires of epileptics to be medicated. It is important to bear in mind that these central ideas exist in the individual in a healthy state, but are more prominent before an acute attack of epilepsy. Every man has some central ideas. It would seem as if mental life, like bodily life, had nervous centres, and those central ideas which exist in many forms of mental unsoundness connected with epilepsy have an unhealthy activity analogous to that which exists in many of the nervous centres as a proximate cause of bodily disease. With regard to the actual epileptic seizure itself little need be said in this place. It has been described with sufficient accuracy to enable its recognition, and we shall consider the capacity and responsibility of individuals who labour under it in another place. The stage of the disease which follows a seizure is of more interest to the medical jurist. Before we consider it we must point out the fact that much epilepsy exists which does not find vent in seizures, just as there is much electricity in heaven and earth which does not produce lightning and thunder. It requires a certain disproportion in the amount of electricity contained in those scales—the heaven and earth—before an interchange takes place, and so it requires a certain want of equilibrium between those scales, man and his environment, before

an actual attack of epilepsy is produced. But there are many flashes of lightning carried down a rod into a well, and so there are many abortive epileptic fits carried off in local convulsions or tremors of the muscles, in losses of memory, in momentary unconsciousness, in "queer feelings," and in temporary stupidity. Now, this condition is very much like that which occurs after a severe epileptic fit. The well-marked attack is followed, it may be, by fury, it may be by stupidity, and these mental conditions are very often accompanied by abortive fits. Now, it is very often in this stage of the disease that the patient is most dangerous to himself and others. The mental weakness, the stupidity, no less than the mania, may lead directly to what has been described as an impulse, and may produce acts of violence and atrocity for which the individual is not really responsible, and for which the law would do well to regard him as irresponsible. It is unnecessary to explain the meaning of the motiveless impulse as used in this work, as some attention has already been devoted to this subject in an earlier chapter, but we would say in this place that we regard the impulse which is due to the mental feebleness following epilepsy as in no way different from that which exists in the minds of those who are feeble intellectually or morally from birth. We would say again that we regard the word motiveless as a misnomer, and ascribe the act to the omnipotence of some one motive. That that motive would be insignificant in a strong healthy mind is true. But the relation is easily understood if we compare ideas to men. An imbecile is insignificant in the world, but in a desert place he is the best man. Amongst very young children he will be the king, and so it is that some paltry motive becomes all powerful in an empty head. The difficulty which arises in connection with what may be called the partial or temporary imbecility, which follows epilepsy, is very great. The fact that it is only temporary is sufficient to account for this difficulty. The man who labours under it may commit some great crime without, what a sane man would call, purpose, but because a simple suggestion became for the time all powerful; and when he is visited by medical men the day after the commission of the crime, he may be found sane, and much of the mental weakness may have disappeared. The same observation is true of the mania which very often follows epilepsy. The individual may remember all the circumstances of his crime, may deplore its commission, but is generally quite unable to say why he did it. When

he becomes sane again, what seemed a motive now seems none, and he says with relative truth, "I don't know why I did it." Owing to the circumstance that epileptics are, during the intervals between fits, to all appearance sane, although there may be considerable impairment of mental strength, and, owing to the fact that abortive seizures may show themselves simply by impulsive acts of violence, or sudden maniacal outbursts, so much so that Trousseau, with an ambition for hypothesis which overleaps itself, has said that the mere commission of a motiveless act of violence "est presque certainement le résultat du chez epileptique,"* it follows that epileptics are the most dangerous of lunatics. Nay, further, from the peculiar character of the delusions which find place in the minds of those who are affected by this disease, from the belief that the wounds and bruises which they receive during the attacks owing, it may be, to the fall or to the convulsions are the result of personal violence, the impulse of the individual is naturally led to the resentment of violence by means of violence, and it is not at all uncommon to find epileptics homicides. The peculiar ideas with regard to the colour red and to blood may have some connection with the atrocity and disgusting details of many of the murders perpetrated by insane epileptics. The existence of these insane impressions is sufficient to account for the direction of mental energy to acts of homicide, and the frequency of the connection between crimes of personal violence and the existence of epilepsy tends to confirm the hypothesis which has been stated above. One or two cases will illustrate some of the statements made above.

"A peasant in Swabia, of parents of infirm health, æt. 27, and unmarried, was subject from his eighth year to epileptic attacks. Two years ago his disease changed its character without any one being able to account for it, and in place of epileptic attacks the man found himself seized by an irresistible desire to commit murder. He feels the approach of the fit several hours and sometimes a day before it comes on. Immediately when he has the presentiment, he earnestly asks to be tied up and bound up with chains, lest he commit some crime. 'When it takes me,' he says, 'I must kill—I must strangle, were it only an infant.' His mother and father, whom for all that he loves dearly, were the first victims of these fits. 'Mother,' cried he, in a loud tone, 'save yourself, or I must strangle you.'

* 'Discours à l'Académie de Médicine.'

"Before the fit he complains of being overpowered by sleep, and yet without being able to sleep. He feels himself greatly exhausted, and experiences slight convulsive movements in the limbs. During the fit he retains the consciousness of his own existence, and knows perfectly that in committing murder he is guilty of a crime. When he has been placed beyond the reach of doing harm he makes contortions and frightful grimaces, sometimes singing and sometimes speaking in verse. The fit lasts from one to two days. When it is over he cries, 'Unloose me; alas! I have suffered greatly, but I have got out of it well, since I have killed no one.'"* Another very interesting case is described by Falret.

"V—, æt. 22, was arrested in Paris, at eleven at night, for having wounded with a knife without appreciable motive, and without provocation, a girl of the town, whom he had met on the street. When examined next day he deposed as follows. He had a very indistinct recollection of what had happened, both before and after the crime; of the moment of its commission he had no knowledge nor recollection. He recalled only one thing, and that was that the knife had in some fashion acted of itself. In his flight after the act he had no idea of what he had done, nor until he had gone a considerable distance did he begin to have a distinct notion of what had happened. The history of the youth was as follows:

"He did not belong to a family in which epilepsy or insanity had appeared. He had suffered from typhus fever three or four years previously. He had not been subject to headaches. He was often subject to giddiness or stupor, when he was obliged to seize upon some object to prevent himself from falling. It was as if a cloud passed before his eyes. This occurred, upon one occasion, while he was speaking, and stopped him. These attacks returned three or four times a day. He sees blue or red balls floating before him. He is subject to tremblings, which may continue for about a quarter of an hour. He has had a sudden feeling of distress at the throat. He declares that his memory was bad—there are moments when it passes away altogether. His employer often sent him with messages which he forgot by the way. Sometimes he forgets even his ordinary work. When he reads he loses all conception of what he reads; although fond of this amusement, he has been unable for several months

* 'Esquirol von Bernhardt II,' p. 371; quoted by Griesinger 'On Mental Diseases,' Syd. Soc. ed., p. 297.

to read. He cannot tell whether he is subject to transitory incoherence. He pretends to be a somnambulist during the night; while working, gloomy ideas are suggested, he has thoughts of suicide, and for a year and a half he has often been tempted to throw himself from the bridges. This tendency arises suddenly—he cannot tell how or why. His father died in February last. Four days previously he had attempted to poison himself with a narcotic. He remained for three days locked in his room. He was not habitually passionate, and had never broken anything. It often happened that he left his work abruptly, and wandered without object about Paris, but never lost his way. Upon one of these occasions he made a journey to Amiens, neither entering a house nor eating anything for two days. Upon the day of the assault he had wandered in the country fasting. At the close of the inquiry V— was sent to Bicêtre as an epileptic lunatic. He was found irresponsible for a motiveless and unpremeditated act committed in a state of delirium, connected with vertiginous but not with formed epileptic attacks."*

We have had opportunities of inquiring into the case of George Lawton, who was an inmate of the West Riding Lunatic Asylum up to the 24th of March last, when he was committed by the coroner to take his trial for the wilful murder of attendant Lomas, at the assizes then being held at Leeds. Upon Monday, the 27th instant, George Lawton was placed at the dock to take his trial. Mr. Baron Cleasby was the presiding judge. Upon the evidence of Dr. Crichton Browne, Medical Director of the West Riding Asylum, being taken, the jury were asked to return a verdict as to the capability of the prisoner to plead, and returned a verdict that he was incapable.

The circumstances of this case, as gathered from the depositions, are these. Lawton was admitted into the Asylum in 1863, and suffered from epileptic fits of a severe character. During his residence in the institution he several times attempted to commit suicide, and shortly before the murder of the attendant, he had struck a fellow-patient in the face with a dinner knife. The deceased (Lomas) was principal attendant in No. 14 ward, in which Lawton had been placed. Upon the afternoon of Friday, the 24th instant, Lomas remained in the ward in charge of Lawton and three other patients, while the other attendants and their charges went out for a walk. About three o'clock an attendant in the airing court

* Falret, obs. x, p. 478, t. xvii, 'Archiv. Gén. de Méd.'

heard a cry, and, looking up at the second storey, saw Lawton striking violently at something on the ground, with what appeared to be a stick. He hastened to the ward, and met a patient on the steps, who said, "He's killed, and he's killed," and upon entering the padded room, he found Lomas lying in a corner, with his skull fractured in many places. The room was spattered with brains and blood.

Lawton was in the dayroom of the ward when he was first seen. He had a poker in his hand, and he said to the attendant, as he was about to enter, "I'll serve you the same if you come in here." That is the whole story. The attendant died ten minutes after the medical assistant was in attendance. The notes of the post-mortem examination upon the body of Lomas indicate that he must have been struck repeatedly with the utmost violence. The condition of the walls and roof of the room in which the murder was committed, point to the same conclusion. During the whole of the Friday night succeeding the murder Lawton was restless and maniacal. He sprang out of bed whenever the attendants, who were in charge of him, turned their heads. The same excitement and restlessness continued during the forenoon of Saturday. Towards evening he became calmer, and could talk rationally concerning the crime he had committed. We had a long conversation with the patient upon the afternoon of Sunday, and came to the conclusion that at the time we observed him he was to all intents and purposes a sane man. He certainly was weakminded. But he described the whole circumstances of the murder with intelligent accuracy. He maintained that he had no ill-will to the deceased, that he did not know why he had done it, and that the deceased had always been very kind to him. When pressed he said he had seen ships and railways on the ceiling of his room before going to sleep; but we did not come to the conclusion that these were insane illusions. He confessed to having done many things to get rid of his fits; to have held his head under the cold-water tap, to have gone without butter or beer for months past, to have drunk his urine, and all with a view to cure himself of epileptic seizures. He described his condition during the day previous to the murder. He had known that a fit was coming on, and had deposited his money and tobacco with the storekeeper, lest they should be taken from him by some other patient during the unconsciousness which was incident to the attack. He had felt a stiffening of the muscles of his limbs, and had, according to his

own account, had a severe seizure in the dayroom upon that day. His memory with regard to the occurrences of the morning of the Friday was not perfect. He sometimes said he remembered being spoken to while at dinner by the medical superintendent, and at other times he did not remember it. He said that he had refrained from taking meat that day, because he thought it would do his soul good. He said that he himself was a Methodist, but that he did feel better upon the Saturday morning for the abstinence. With regard to the crime itself he knew it was wrong. He knew that persons who were in their right mind, and who committed murder, were hanged, but he seemed to regard himself as exempted from punishment because he had fits, and because he sometimes did not know what he was doing. He said he knew swearing was wrong; he thought it more heinous than murder. He imagined that if Lomas was good, he must have gone to heaven, and he said he hoped he had not done him any harm. He repeatedly asserted that he liked Lomas, the murdered man, and that he did not know why he had done what he had done. He spoke of having on a former occasion tried to jump through a glass door, and having, before he was admitted to the asylum, laid himself down on the rails that he might be run over. He seemed to connect these acts, or the conditions existing when they were done, with the murder of his attendant, or the conditions which were present at the time of the commission of the crime. From the whole interview—from what he said, from his manner of saying it, from the muscular tremors which every now and then were observable in his limbs—we came to the conclusion that the crime for which he was to be tried was due to a simple suggestion, arising during the stupid condition which succeeds an attack of epilepsy, and that the temporary imbecility was succeeded by epileptic mania, which was in its turn followed by a gradual restoration to the normal condition of health. In our presence the patient showed that he was able to read, that he understood the simple rules of arithmetic, and that he was cognisant of the ordinary doctrines of religion in much the same way as other people of the same class, and with the same amount of education are. There was considerable mental weakness, but it seemed to us to be of such a kind as would not have incapacitated the patient in any way, civil or criminal, had he been free from epilepsy.*

* An interesting case will be found in Dr. Russell Reynolds' 'Epilepsy, its Symptoms, &c.,' p. 207.

The danger that arises to others during the preliminary stage of an epileptic attack, and that which is present after the coma has passed away, cannot be exaggerated. But there is actual danger to others during the continuance of what is called the fit itself. Trousseau was consulted by a newly married couple. The lady stated that a short time after their union she had been suddenly awakened during the night by the strange movements of her husband. Suddenly she was attacked, and had it not been that she was succoured by a servant, she would have been severely injured. The assault was repeated a few days before the physician was applied to, and upon the latter occasion the wife awakened in time, and, having lighted a candle, witnessed her husband's convulsions, and escaped from the fury which immediately followed. The patient was perfectly conscious of something having happened to him, of which he could give no account, and he admitted that frequently, previous to marriage, he had been subject to vertiginous feelings, which had been misunderstood by the physicians.*

These facts show that there is some necessity to consider the legal relations of those who labour under this disease, and show that there is a necessity for an intelligent adaptation of the principles we have already enunciated to certain cases of the disease which is under consideration. Now, we have seen the proneness of medical men to look upon every disease as, to some extent, depriving an individual of responsibility. We have had occasion more than once to remark upon the unpractical refinements of those persons who have made mental disease their study, and there is ample room still left for the censure of alienist physicians. Those who assert that all epileptics are insane, and therefore irresponsible, err as much upon the one side as the Lord Justice Clerk (Inglis), who said, "Disease of the brain is not insanity. Disease of the brain is bodily disease, and insanity is mental disease, and no amount of bodily disease will justify you in pronouncing the persons insane," did on the other.

But there are some facts with regard to the capacity and responsibility of epileptics which require to be considered. While an attack of epilepsy lasts, the individual is clearly incapable of performing any civil act, and it would be as unjust to hold such an individual responsible for any criminal violence as to hold an individual who is labouring under the delirium of fever responsible for any

* Legrande de Saule, 'La Folie devant les Tribunaux,' p. 391.

outrage which he might commit. But with regard to the premonitory conditions and the subsequent state the question is one of much greater difficulty. A very recent judicial decision bears somewhat directly upon this point.

During the trial of Walter Crabtree for the murder of his father, which took place at Leeds upon the 29th of March last, after the evidence for the prosecution had been led, a juryman took an epileptic fit, and was removed from the jury-box. A Dr. Hay, of Halifax, was in attendance immediately, and upon being summoned to the witness-box by Cleasby, B., he said that "he was of opinion that the juryman in question was suffering from an epileptic fit, and that he would be unable to go on with the trial that day." He also said that he ascertained from the wife of the juryman that he had suffered an injury to his head some years ago, and it was to that injury his wife ascribed the frequency of the fits. In answer to a question put by the judge, Dr. Hay said a fit might come on at any time, and that it was impossible to say whether he would be in a condition to resume his duties upon the following day. After consulting with Mr. Justice Brett, the presiding judge said he must hold the juryman permanently disabled, and the jury were discharged.*

In this case we find an epileptic seizure incapacitating a man from performing one of his civil duties and from enjoying a civil privilege. Not only must the existence of this disease incapacitate a man from doing this one act or enjoying this municipal privilege, but it must necessarily deprive him of the power of doing many acts which as a citizen he would otherwise have a right to do. Thus, any contract entered into by an epileptic during the state of mania which often follows the attack would be invalid, as it is evidently a matter of no importance how long the incapacity lasts if its existence can be satisfactorily proved. But not only should this rule apply to the mania, but it ought to apply with equal force to the temporary imbecility which exists at a certain stage of the disease. In this case, of course, the proof of the existence of a mental condition which deprives an individual of the power of contracting or of the power of disposing of his property is a matter of much greater difficulty, and because of the greatness of the difficulty will be the frequency of the occurrence of cases in which it is impossible to do justice.

* Author's notes of the trial.

No one asserts that human tribunals always do right. Any one who is acquainted with the administration of justice must be satisfied that sometimes much injustice is done. And in those cases where civil incapacity or criminal irresponsibility is in question on the ground of the existence of the temporary mental weakness due to epilepsy, it is impossible to predicate that, even with the best medical testimony, justice will always be fairly meted out. But that whenever the existence of that mental condition which renders the individual incapable of judging fairly of motives,—whenever that mental state which places the mind at the mercy of one overmastering motive or idea, which may have been made strong by the iron of habit, can be proved to exist, then, upon the legal principles already described, the individual ought to be held irresponsible for criminal acts, and incapacitated from the enjoyment of civil privileges. This is no new doctrine. There is not a judge upon the bench that would not admit that such was his idea of the English law, and it is only because medical men have used technical terms, and not been at the pains to ascertain the real foundations of the legal principle and the psychical fact of irresponsibility or incapacity, that there has been interminable confusion, and in many cases very stupid blunders.

A consideration of some of the remarks of the Lord Justice Clerk's charge in the case of George Stephens will show that the above surmise is correct. This was a trial for murder, and the prisoner was proved to be an epileptic. "There are some matters," said his lordship, "connected with the doctrine of legal insanity which it is quite necessary to give you directions about at the outset. Insanity is a term capable of being used in several meanings, and it is very often used by gentlemen of the medical profession in a totally different sense from what it is in use in courts of criminal jurisdiction. A man's mind may be weakened by disease, and may, in a certain sense, be called insane, but not on that account does he cease to be morally and legally responsible for his actions. A man whose mind is weakened or impaired may be more easily excited and provoked than another, just as a man in bad health may be easily irritated; but does he, therefore, cease to be a responsible agent? That is quite out of the question."*

But it does not seem to have occurred to his lordship that there

* See report in 'Aberdeen Herald,' 22 April, 1865.

may be an amount of weakness produced by disease which will reduce the strong man to the level of the idiot; and just as it would not be absurd, and has never been out of the question, to hold that the idiot was irresponsible, therefore it seems to us that, while the mental enfeeblement which follows after epilepsy exists, and is of such a nature as we have described above, the individual thus affected should be held to be incapable of committing a criminal act, which implies the possession of volition, intention, and malice in the individual committing the act. Still we regard epileptics who are not otherwise insane as in every way capable of performing all the acts of a citizen, and liable to all the punishments which citizens incur who violate the laws, except under the conditions above described. We would also be very careful of sifting the evidence adduced in proof of the temporary mania or the temporary imbecility which follows upon epilepsy in some cases; but when it is satisfactorily proved it must necessarily be a bar to punishment, and must invalidate any contracts which the party may have entered into during the existence of this mental state. With regard to crimes committed during the convulsions of the disease nothing need be said.

Note.—The following works, which have not been alluded to in the text, may be referred to:—Dr. Sieveking's 'Epilepsy and Epileptiform Seizures;' M. Brown-Séquard's 'Researches on Epilepsy;' Dr. Radcliffe's 'Epilepsy and other Convulsive Affections;' Portal's 'Observations sur la Nature et la Traitement de l'Épilepsie;' Delasiauve's 'Traité de l'Épilepsie;' Schroeder van der Kolk's 'Syd. Soc. Trans.;' Maissonneuve's 'Recherches et Observations sur l'Épilepsie;' and article on "Epilepsy" in Reynolds' 'System of Medicine,' vol. ii, p. 251.

CHAPTER XIII.

SOMNAMBULISM AND ITS LEGAL RELATIONS.

"Half our days," says Sir Thomas Browne, "we pass in the shadow of the earth, and the brother of death extracteth a third part of our lives." Well has sleep been called "death's brother." In sleep men are in another world—they are in a delirium of dreams. Consciousness is scarcely maintained, identity is sometimes lost, memory is chaos, reason is a lord of misrule. All the mysteries which are brought before us every day are likely to remain mysteries. Their commonness makes the trouble of solution a trouble scarcely ever undertaken. So it is we know little or nothing of the physiology of sleep or dreams. The subject has been as unfathomable as the ocean to which sleep has been so often compared.

> "And the beasts, and the birds, and the insects were drowned
> In an ocean of dreams, without a sound.
> Whose waves never mark though they ever impress
> The light sand which paves it,—consciousness."

That sleep is a succession of ever varying states has been pointed out;* and the alternating passage from waking to sleeping has been quoted as an illustration. A man may sleep deeply or shallowly, and as Bichat has said, "Le sommeil général est l'ensemble des sommeils particulièrs," which shows that it was his opinion that each separate faculty or sense may be at the same moment in totally different conditions. We have all along held that any sense may sleep while others are awake, just as any sense may be deadened and lost while others are still intact; and we have held that the appreciation of this fact in all its bearings would explain many of the circumstances of mesmeric sleep or hypnotism, as it is evident that the circumstances of the production of the sleep must

* Chapters on Mental Physiology. Sir H. Holland.

materially influence the phenomena of dreams. The same may be said with regard to trances and catalepsy; and we believe all the mysteries which have so long perplexed the world with regard to those semi-conscious conditions are explicable on the hypothesis that sleep is a series of complex and every varying states.

With regard to the physical causes of sleep little or nothing need be said. It has always been regarded as the reparation of exhausted power, or as Professor Bain has more recently termed it, the storing up of *vis nervosa*. Professor Bain's theory is perfectly consistent with the views advanced above, for it is evident that the nerve force which is accumulated at different nervous centres will require more thorough recuperation in one place than another, and hence it will follow that a man will fall into a deeper and more profound sleep with one part of his organism than another—a fact that seems to have been recognised with the stupid naked eye of common sense, for we find that in ordinary parlance men speak of their foot sleeping, which seems to us a recognition of the possibility of the insensibility of certain organs at the same time that others are hyperacute. This fact seems to explain many of the peculiar phenomena of somnambulism. In this state, while we find such a condition as can fairly be called sleep, yet at the same time many of the mental faculties are in full activity. The following case will illustrate this fact:

"A postman had to go between Halle and a town eight miles distant. This distance the postman was in the habit of traversing daily. A considerable part of his way lay across a district of unenclosed champagne meadow land, and in walking over this smooth surface the postman was generally asleep; but at the termination of this part of his road there was a narrow foot-bridge over a stream, and to reach this bridge it was necessary to ascend some broken steps. Now it was ascertained as completely as any fact of the kind could be; the observers were shrewd, and the object of observation was a man of undoubted probity. I say it was completely ascertained—1st, that the postman was asleep in passing over this level course; 2nd, that he held on his way in this state without deflection towards the bridge; and 3rd, that just before arriving at the bridge he awoke."*

* See Sir William Hamilton's Lectures, vol. i, p. 335, quoted from Professor Junker of Halle. See also M. Jouffroy's Mélanges, p. 318, 2nd ed., p. 290. With

"So in 1838 a man was brought before Alderman Thorp, who had a parcel cut from his arm although he had strapped it on tightly to prevent this, as he was often falling asleep even during his walk. Yet, even then, he usually took the parcels to their proper directions."*

So Franklin assures us that he floated on his back, in a warm bath at Southampton, for nearly an hour asleep; and Galen says of himself that he once walked about a whole night in his sleep till awakened by stumbling against a stone which lay in his way.

"A butcher's boy, about sixteen years old, apparently in perfect health, after dosing a few minutes in his chair suddenly started up, and began to employ himself about his usual avocations. He had saddled and mounted his horse, and it was with the greatest difficulty that those around him could remove him from the saddle and carry him within doors. While he was held in the chair by force he continued violently the actions of kicking, whipping, and spurring. His observations regarding orders from his master's customers, the payment at the turnpike gate, &c., were seemingly rational. The eyes when opened were perfectly sensible to light. It appears that flagellation even had no effect in restoring the patient to a proper sense of his condition. The pulse in this case was 130, full and hard; on the abstraction of thirty ounces of blood it sunk to 80, and *diaphoresis* ensued. After labouring under this frenzy for the space of an hour he became sensible, was astonished at what he was told had happened, and stated that he recollected nothing subsequent to his having fetched some water and moved from one chair to another, which, indeed, he had done immediately before his delirium came on."†

One girl was taken to church while the paroxysm was on her. She shed tears during the sermon, particularly during the account given of the execution of three young men at Edinburgh, who had described in their dying declarations the dangerous steps with which their career of vice and infamy took its commencement. When she returned home she recovered in a quarter of an hour, was quite

regard to sleep and dreams Dr. Addington Symonds' Lectures (London, 1855) may be consulted; and some light will be thrown upon the subject by reference to De Quincey's 'Confessions.'

* Dendy, 'The Philosophy of Mystery,' p. 309.

† Dendy, op. cit., p. 313.

amused at the questions put to her about the church and sermon, and denied that she had been in any such place; but next night on being taken ill she mentioned that she had been at church, repeated the words of the text, and gave an accurate account of the tragical narrative of the three young men by which her feelings had been so powerfully affected.*

We very often find that even where somnambulism is not present there is somniloquence, and in many cases people learn readily to do little automatic acts during sleep. It is said, we believe, with perfect truth, that the albatross sleeps upon the wing. And all these facts illustrate the principle which is laid down above, that sleep is in many cases local as it were, and that while a man's eyes are shut his sense of touch may be exalted, as that of a blind man's often is; and the impressions of the sense of touch may be in perfect harmony with that minute memory which lives in the eye during some vivid dreams. In this case the memory would be in place of the eye, or any other sense that was for the time in abeyance. And this theory is borne out by the fact that we never have examples of somnambulists doing new things or going to strange places, which would require the co-ordination of the sense of sight and touch, but they invariably do things that they have been in the habit of doing. But of acts that he has been accustomed to do the somnambulist finds nothing too difficult. Thus we have numerous instances of persons who have walked securely in their sleep along the edge of a precipice, of men who have been found swimming in the sea during their sleep, of children who have been found fishing, and of men who have saddled their horses and ridden away exactly as if they had been awake. The independence of the individual of the special senses which ordinarily accompany actions is, it seems to us, only to be explained on the theory stated above.

On the somnambulism of Lady Macbeth the physician said, "You see her eyes are open," and the waiting-gentlewoman answers, "Ay, but their sense is closed." But this state of things seems not unfrequently reversed, and an actual transference of the peculiar form of sentiency from one part of the bodily organism to another takes place, although it scarcely goes so far as clairvoyants would have us believe, who can read books or tell the time indicated by the hands of watches which are held behind their heads. In most cases, however,

* Combe's 'System of Phrenology,' vol. ii, p. 226.

the eyes of the somnambulist are closed or at least only half open, while in a few, as in the case of Lady Macbeth, they are open and staring.

Somnambulism is sometimes associated with catalepsy. This condition certainly does not merit the name of somnambulism, as in it the individual does not move about, and the word somniloquence used above better conveys some impression of the outward signs of this curious condition. During the seizure the patient is capable of carrying on conversation, and often talks with greater fluency than characterises his conversation when awake.

As in cases of pure somnambulism, the waking consciousness of the individual knows nothing of the experiences of the sleeping consciousness. It is as if there were two memories.*

Now, just as passion is a healthy, and the maniac's frenzy is an unhealthy, condition, so may a certain amount of somnambulism be compatible with perfect health, and be excited simply by distressing circumstances occurring in the life of the individual; while, on the other hand, it may be due to a morbid condition of the cerebral organism. This is illustrated by the fact that insane persons are liable to night terrors, and it is principally with night terrors that we in this book have to do. It is true that in many instances the raw material of dream-thought, or the stuff that dreams are made of, is bodily sensation. We know that even the more purposeful thought of our waking hours is often directed by sensations, and it would be utterly unphilosophical to deny that the same is true of the thoughts which come to us from out of the ambush of sleep. The imperative sensations of a diseased organism, therefore, are the cause of many "nightmares."

"A singular fact," says Abercrombie,† "has often been observed in dreams which are excited by noise, namely, that the same sound awakes the person, and produces a dream which appears to occupy a considerable time. The following example has been related to me. A gentleman dreamed he had enlisted as a soldier, joined his regi-

* Mr. Combe mentions the case of a porter who in a state of intoxication left a parcel at a wrong house, and, when sober, could not recollect what he had done with it. But the next time he got drunk he recollected where he had left it, and went and recovered it. Dumas' novel, 'The Physician,' is founded upon the fact of the forgetfulness of all the experiences which may have been gained in mesmeric sleep.

† 'Intellectual Powers,' 12th ed., p. 215.

ment, deserted, was apprehended, carried back, tried, condemned to be shot, and at last led out to execution. After all the usual preparations a gun was fired; he awoke with the report, and found that a noise in an adjoining room had produced the dream and awakened him."*

But it seems to us that it is erroneous to attribute this peculiarity to impressions made on the sense of hearing. How closely the whole subject of dreaming and nightmares is connected with that of somnambulence and somniloquence will be evident from a consideration of the theory of sleep above indicated, and the importance of a thorough appreciation of the subject will be shown by some of the following cases, and by the possible relations of persons labouring under such morbid states to the laws of the country in which they live. The old stock case which has found a place in every work of this kind for the last fifty years claims its place here by prescriptive right. It is that of a monk who late one evening entered the room of the prior of his convent, his eyes open but fixed, his features contracted into a frown, and with a knife in his hand. He walked straight up to the bed as if to ascertain if the prior was there, and then gave three stabs which penetrated the bedclothes and a mat which served the purpose of a mattress. He then left the room with his features relaxed, and an air of satisfaction on his countenance. The next day, on being questioned, he confessed that, having dreamed that his mother had been murdered by the prior, and that her spirit had appeared to him and cried for vengeance, he was transported with fury at the sight, and ran directly to stab her assassin. Shortly after he awoke and rejoiced to find that it was only a dream."†

A case in which the waking from a dream influenced the conduct of the individual when awake is given by Dr. Pagan.

"Bernard Schedmaizig suddenly awoke at midnight at the moment he saw a frightful phantom, or what his imagination represented as such a frightful spectre. He twice called out 'Who is that?' Receiving no answer, and imagining that the phantom was advancing upon him, and having altogether lost his self-possession, he raised a hatchet which was beside him and attacked the spectre, and it was found that he had murdered his wife."‡

* A similar case is given in M. Jouffroy's 'Mélanges.'

† Georget's 'Des Maladies Mentales,' p. 127.

‡ Pagan's 'Medical Jurisprudence of Insanity.' London, 1840.

Dr. Delasiauve, who quotes from a Spanish newspaper, gives the following case:—'Arsanz, æt. 26, had been a soldier, always of good conduct; his health seemed tolerable; he was subject every spring to epistaxis, also to talking in his sleep. The spring of 1854 passed without epistaxis, and from that time, particularly during the night, he was subject to certain moral disturbance, for which purging was advised. Travelling with a brother and sleeping in the same bed, he was attacked during the night by this excitement, fancied that his bedfellow was going to kill him, and seizing a knife he plunged it into his neck. He then went out and slept on the staircase two hours. When he awoke he had some obscure consciousness of what he had done; and, on seeing his dead brother, he was in despair, and wounded himself severely. The flow of blood restored his reason, and he called for help, and, after some time, told all the circumstances. He was examined by two medical officers, who reported on the soundness of the *intellectual* faculties. The judge, satisfied that so unusual an act must have its origin in insanity, summoned the Dr. Angel Antonio Diez. He, together with the others, made repeated observations, and observed a strong tendency to melancholy and nocturnal febrile attacks. From these and some other circumstances they reported that Arsanz had acted impulsively and without moral liberty. Upon this the prisoner was acquitted."*

Another case may be quoted. "A pedlar, who was in the habit of walking about the country armed with a swordstick, was awakened one evening while lying asleep on the high road by a man suddenly seizing him and shaking him by the shoulders. The man, who was walking by with some companions, had done this out of a joke. The pedlar suddenly awoke, drew his sword, and stabbed the man, who soon afterwards died. He was tried for manslaughter. His irresponsibility was strongly urged by his counsel on the ground that he could not have been conscious of his act in the half-waking state. This was strengthened by competent medical witnesses. He was, however, found guilty."†

Indeed, there are very many cases in which the confused thoughts of awakening consciousness have led to acts disastrous in their

* 'Journal of Psychological Medicine,' July, 1856, p. 484.

† This case is quoted in Dr. Winslow's "Plea of Insanity in Criminal Cases," from the 'Medico-Chirurgical Review.'

consequences. And this is to be accounted for by the fact that there is a state between sleeping and waking, when the thoughts of the dreamer have as much reality as the facts he is assured of by his senses. There are many states in which, as in the views in a magic lantern, the real circumstances are dissolved, as it were, into the false circumstances of the dream. The actual things in the room are seen, but dreams are in the room, too—dreams clothed with the strange reality of substances. Thus, it is not unfrequent in such a state of consciousness to see some one standing in the faint light, and still to recognise as the fire flickers all the articles of furniture which are familiar to one. In such a state it is not difficult to conceive the presence of some vague apprehension, which any external circumstance, as the entrance into the room of some one we disliked, might raise to a feeling of actual terror, which might lead to acts which would, but for the possible irresponsibility of the agent, be criminal. Or it is easy to understand how, when the sleep has deepened with regard to some of the senses, the individual, moved by some wish which was strong even during waking hours, might rise and perform some act from which it required all the force of motives appreciated by a watchful, wakeful mind to restrain the individual.

In such cases the question as to the responsibility of the individual is one of much interest and importance; and care must invariably be taken to appreciate the ease with which the circumstances which lead to irresponsibility for criminal acts in such cases may be feigned. That many cases do arise in which the effects of dreams either being dreamt, or dreams from which the individual has just awakened, have led to acts for which it would be unreasonable to hold the individual responsible is beyond doubt. Cases are on record in which persons who have gone to bed without manifesting the slightest tendency to self-destruction, and in whose circumstances there was nothing to warrant such a frightful act, have, upon being suddenly aroused from a frightful dream, destroyed themselves.

"An old lady residing in London awoke in the middle of the night, went downstairs and threw herself into a cistern of water, where she was drowned. The suicide was supposed to be the result of certain mental impressions originating in the mind during sleep."*

It would be absurd to argue that if dreams are sometimes so

* Winslow's 'Obscure Diseases of the Brain and Mind,' p. 616.

disastrous in their consequences to the individual himself that they should in no cases produce acts which would be hurtful to others. Some of the above cases indicate that this is the fact, and it is scarcely necessary to add that when this can be satisfactorily proved, the individual should be held irresponsible for the act committed. Just as a man is held irresponsible if he shoots another who in a joke comes up and, with all the appearance of reality, demands his money or his life, so if an individual wakens from a dream in which he believes he has been pursued, and that the pursuer had the intention of depriving him of life, he would be irresponsible if he killed some one who was close to him, and whose conduct had led him to confound the reality with the circumstances of the dream. The greatest caution, however, must be used before admitting this plea, as it is evident that it is not difficult to reproduce all the circumstances of such an act, while no terror is actually present, and while no circumstances could have led to a misapprehension. The same caution must be used with regard to the determination of the responsibility for crimes committed during actual sleep. One circumstance will assist in distinguishing between real and feigned night terror or somnambulism. The fact that it has often occurred before will tend to strengthen the belief that it is unfeigned. The circumstances which have produced it in times past should be inquired into, and compared with those going before the attack in which the crime of which he is accused was committed. The similarity of the causes will lead to a certain amount of confidence in the results being similar. If the individual in a state of somnambulism could be seen, as in cases in which it is simulated he may possibly be—for it is his object to convince some one of the reality of the sleep, and may therefore give them opportunities of observing it—some tests may be applied, which will indicate whether it is a real involuntary state, or only an imitation of some of the most prominent symptoms. Thus, as the mind is generally unconscious of what passes around it during the existence of the sleep, tests are not difficult of application. Suppose it to be simulated, and suppose the medical man, who is anxious to determine the fact of its feignedness, be present during an attack of paroxysm. If he chose a time when the somnambulist is standing quietly, and simply goes behind his back, and stands there without doing anything, the impostor will be most anxious to learn what the meaning of this manœuvre is, and will wonder what the medical man

is doing behind him. This desire and curiosity will make him turn round; while the real somnambulist, being unconscious of the presence or of the action of the medical man, will stand in the same position, and his conduct will not in any way be modified by the conduct of those around him. Of course tests will suggest themselves in every individual case, and the rarity of its acceptance as a plea, and very high degree and conclusiveness of the proof of the existence of somnambulism necessary in all cases, will prevent its adoption by impostors.

Still, while we would guard against its successful imitation with a view to escaping legal consequences, we must still be prepared to consider the legal relation of those who actually do commit crimes under the influence of night terrors, or of the dreams of somnambulism. That such crimes are committed we have proved.

And first we would say that, just as a man who gets drunk is by law held to be responsible for the acts he commits while he is intoxicated, upon the ground that although when drunk he might not be able to avoid the commission of the crime, yet while sober he was able to avoid getting drunk. Upon a similar principle we would say that the man who is aware of the existence of night-terrors or of somnambulism, which have in times past led him to the verge of the commission of crime, and who, although thus made wise by experience, has taken no means to avoid the consequences of this abnormal condition, or of the acts which are done under its influence, should be held responsible. On the other hand, it would be unjust to punish a man for a crime committed during sleep, and under the belief that the impressions of his dream were realities, if he was not in such a position as to take precautions against the commission of a criminal act. For example, if the act which has all the appearance of criminality was committed during his first attack, it would be unfair to punish him, as under such circumstances he could have taken no precautions against the events which really happened.

Another principle ought to regulate the determination of the question of the responsibility of somnambulists. As when an individual who commits a crime under the influence of a delusion is held to be irresponsible if the imagined circumstances would, had they been real, have justified the act in a sane man, so the same rule ought to be applied to the acts of the somnambulist. If a man

rises in his sleep and goes to a neighbour's house, believing that he has called him a liar; if in consequence of this supposed insult he commits murder, we hold that he is to be regarded as responsible for the act; if, on the other hand, it could be proved from the words uttered by the somnambulist, from his acts, or from his own corroborated statement with regard to his impressions, that his neighbour was the seducer of his wife, the same act, it seems to us, should under such circumstances be regarded as manslaughter. If, however, the somnambulist in his perambulations was met by some one, and shaken with the intention of arousing him; if owing to this circumstance he became possessed of the idea that he was attacked, and if in self-defence he killed the man who would have awakened him, we are of opinion that such an act should fall under the category of justifiable homicide, and the individual ought to be regarded as altogether irresponsible. The proper course to take under such circumstances would be to deliver over the somnambulist to his friends, on caution to the amount determined on by the court, to prevent him doing harm to himself or others.

It may seem to many to be illogical to graduate the scale of responsibility of somnambulists in the way indicated. It may be argued that if a man is to be held irresponsible at all for acts committed during sleep, it must be just to hold him irresponsible for all the acts which he commits during somnolence. But it is not so. Many of the acts a man commits during sleep have been thought over during his waking hours. Now, a man who was conscious of his liability to somnambulism, if the law was such as we have suggested it ought to be, would be careful not to indulge in waking thoughts, which might lead to unpleasant consequences when he was asleep. It seems to us possible that a somnambulist could be so educated as to make up his mind to an act while he was yet awake, and might carry it out during his sleep. Such a trick would not avail a man under the state of the law which we have recommended. And besides, what seems to be a prudent regulation with regard to insane delusions, would surely be equally satisfactory for the regulation of those who are liable to the exaggerated impressions of dreams, and to be influenced to acts by such impressions. A life which is not infected by envy, hatred, or malice, will not even in sleep tend to criminal acts. Our nights are shadows of our days. Quiet consciences have gentle dreams. So much with regard to the

relation of somnambulists to the criminal law. Something must be said with regard to their civil liability.

It is evident that the existence of somnambulism may be a good ground for avoiding contracts of service which have been entered into in ignorance of the existence of this tendency or propensity; in many cases it might utterly unsuit the individual for the duties he was engaged to perform; and it is equally certain that somnambulism or night terrors would not be a good ground for a divorce; under circumstances which it is possible to conceive, but which are very unlikely to arise in fact, somnambulism might become a ground which would warrant a wife separating herself from her husband, even although it had not gone to such an extent as to warrant medical men in signing certificates for his incarceration in a lunatic asylum. That it may pass into actual insanity is evidenced by the close connection which undoubtedly exists between cataleptic somnambulism or hysteria and epilepsy, which is, as it were, a sort of highway leading to mental disease.

The above propositions are true, whether the tendency to somnambulism existed previous to the entrance of the individual into the contract, or if it was developed in the individual subsequent to the formation of the contract. This will not be the case, however, where the somnambulism is so slight, or of such a nature as not in any way to interfere with the duties that the person was engaged to perform.

A somnambulist is of course liable in an action of trespass for any injury done to the property of others. This is equally true, both in law and in equity, of an insane person or an idiot as of a somnambulist. It must always be borne in mind, when looking at one side of a subject, that there is another side. And in this connection it may be remarked that laws were made for the sane as well as for the insane, and it would not be so if lunatics or somnambulists could commit trespass and do damage without making reparation.

CHAPTER XIV.

DRUNKENNESS AND ITS LEGAL RELATIONS.

Drunkenness is the word in ordinary use for that state of body and mind which is produced by alcoholic liquors, and is used in ordinary every-day transactions as equivalent to poisoning by means of alcohol. Alcohol taken in large doses, and in a concentrated form, may cause death suddenly by shock; but the ordinary course of a case of poisoning by means of alcohol—and the same remark is true of ether and of chloroform—is marked by confusion of thought, delirious excitement, nausea, and vomiting, and ultimately induces a state of narcotism, and in fatal cases it produces a kind of apoplexy or causes death by paralysing the heart.

A more minute description than the above is, however, necessary of what is called drunkenness. If the quantity of alcoholic liquid consumed be very great, or if the strength of the liquid be considerable, the symptoms of poisoning may show themselves within two or three minutes after the dose has been taken. On the other hand, when the quantity or strength of the alcoholic liquid swallowed has been inconsiderable, the symptoms may not set in for more than an hour. The first effect is generally a diffused glow spreading from a central heat, accompanied by a comfortable feeling of self-satisfaction, which is reflected upon the world generally, and even to a sad man it begins to appear "not such a bad place after all." Thought is probably more rapid at this stage just as the pulse is; but rapidity of thought does not always conduce to clearness, and soon there is a slight confusion of thought; the hilarity continues; the spirit is buoyant; the individual is talkative.

"Fœcundi calicis quem non fecere desertum."

But the words stumble. The speech from stammering becomes

indistinct; he feels giddiness; he sees double. There are abrupt, almost automatic, movements of the limbs. He makes up for the thickness of his speech by its loudness. He is sometimes ready to take offence at any act upon the part of a neighbour, and becomes quarrelsome. Some men, however, become still more friendly; many men become amorous. The "softer flame" spoken of by Burns seems to burn the brighter for alcohol. There is now a thorough want of concatenation of the impressions conveyed by different nerves. He sees his glass or bottle and he grasps at it; but he misses it, and possibly stumbles and falls. At length the patient loses the power of speech and the power of voluntary motion. Insensibility, a sort of hideous sleep, comes on. The countenance is bloated and suffused, the eye is injected, the pupil dilated and fixed, the lips livid, and the breathing stertorous. A man may sleep off his drunkenness, or he may reject, by vomiting, part of the poison before it is taken into his system. In cases where death ensues its approach is indicated by pallor of the face, cold perspiration, a quick and feeble pulse, and total muscular relaxation.

In this place, however, we have only to do with the immediate effects of poisoning by small doses of alcoholic liquids, and to consider in what way and to what degree the intellectual and moral nature of a man may be influenced by an abusive use of intoxicating drinks.

"In order to spend on the one side," says Goethe, "nature is forced to economise on the other side." This is certainly one of the most universal laws which has been promulgated. We find it in the physical world, and where we want motion, as in the steam engine, we have to give up heat; where we desire galvanism we have to sacrifice the chemical potentiality of certain agents, but we find the same law in animal economy. We use the day for labour and sacrifice the night to sleep. To some minds it is sad to think that an extra exertion requires extra food, but it is true. The law is the same in time as in space. If by means of stimulants we have increased activity just now, nature economises our strength by increased prostration afterwards. Some philosophers have regarded all pleasure as due to increased activity, and all pain as due to diminution of activity. So when we spend our pleasure to-night, when we have increased satisfaction and more intense vitality just now, we must expect to be compelled by nature to economise our pleasure or suffer pain to-morrow. What we know as depression, headache,

thirst, and the other symptoms of a return to sobriety, are the coins of pain we must pay for our pleasure. We cannot both spend and have. If we enjoy the dissipation of a fortune to-day, we must be content to suffer poverty to-morrow. There would, however, be very little harm if we could always make up for the backslidings of nature in us. If by more sleep we could pay off the account of more than ordinary tiredness, a balance of accounts would always be easy; but it is not so. The pain which follows the indulgence of physical pleasure is pain, and men have a desire to be free from pain. Sometimes this desire is so strong that they will be free at any hazard. The wise man knows when it is well to suffer. The man who is nothing of an ascetic is a fool. Experience teaches fools, however, as well as wise men; and men who have suffered the pain of the uphill clamber towards sobriety have discovered that the poison which gave the pleasure overnight can give it again to-day. So the account increases. But there is more—there is the tear and wear of increased activity. Drunkenness which has become habitual is accompanied by a loss of tone in character, which is the bloom of virtue; there is a blunting of the moral perceptions; there is a decreased sympathy with what is good and excellent; an increased selfish craving for what is unworthy and debasing. Not only are moral perceptions blunted, but the power of intellectual discrimination is much impaired. Objectless activity, such as is produced by physical stimulation, is worthless; and what is worthless in the human economy soon becomes a positive evil. The force which causes intellectual activity should be a mental, not a physical one; and under this influence the impairment of the faculties is almost certain. The habitual drunkard's ideas become more spontaneous, less under the power of control, and more fancifully arranged by the associative principle of human thought. Any exertion which requires continuous mental effort soon becomes impossible to the inebriate, and the real healthy power of concentration is utterly lost.

One knows how we make habits in clay and how they turn to iron; how, if we are not careful of each individual present, the past will be a great power in our life, compelling us to do evil, even against our will. Habitual drunkenness leads almost directly to *delirium tremens* or *mania a potu*. It may result from a single excess or from a series of excesses; and it may occur in those who have not, as well as in those who have acquired habits of intemper-

ance. It often occurs after an abstinence in those who have been in the habit of indulging largely in the use of spirituous liquors. An exhausting disease or a surgical injury after a long course of intemperance has been known to lead immediately to an attack of delirium tremens.

There is not much difficulty in distinguishing the delirium of drunkards from ordinary delirium. The previous history of the case is generally sufficient of itself to enable a medical man to decide the question; but there are many characteristic symptoms which would facilitate a decision even if the past history was unknown.

An individual suffering from delirium tremens is sleepless, restless, timid, suspicious, and cunning. He is subject to illusions of the senses, and those in most cases are productive of fear. Most of his illusions are painful, hideous, or disgusting. The individual not unfrequently believes himself the subject of persecution. If he hears voices they are threatening, if he sees visions they are loathsome. In its inception the disease is marked by slight tremor of the hands, and in so far as these organs are concerned, by an uncertainty of muscular action. The appetite is almost always impaired; the skin is pale, cold, and clammy; the tongue moist, white, and tremulous, and the pulse small and weak; the delirium which supervenes is not constant. It is frequently found to come on at night. After a time, however, there are no remissions in the delirium, which may last for three or four days. Recovery, when it takes place, comes after sleep, which is at first uneasy, and only enjoyed in snatches, but at length becomes quiet and refreshing. When ordinary sleep does not come a sounder sleep falls upon the sufferer; there is no more troubling, the weary one is at rest.

It has been remarked that the delirium of this disease bears a strong resemblance to dreaming. It is as if the patient's dreams had acquired a persistent existence independently of sleep. Every one is familiar with those dreams which are quests,—dreams in which the sleeper is seeking for something that is lost,—always seeking, seeking, and yet unable to say what it is that is sought; or dreams in which there is some duty to be performed,—some act which is absolutely incumbent to be done. Those are tormenting dreams; they harass the spirit just as a waking memory of some other lost memory does. In delirium tremens many of the impressions are of a nature analogous to these dreams. The patient is anxious

to go somewhere; he must rise; he cannot stay in bed, he will be too late; it is unkind to say "lie still," he must go—or something must be done; and he will cry if his intention is thwarted, although it is a purposeless intention—a road without a goal. Almost invariably his delusions are associated with fear and suspicion. Those persons who are about him are suspected of many nefarious designs, and so painfully does the fear of coming evil oppress him that attempts to escape are not uncommon, and the patient, with a view of ridding himself of the horrors which torment his senses, and the unutterable fear which torments his mind, will endeavour to do violence to himself or others. Many cases are on record which show that atrocious crimes have been committed by persons labouring under this disease. There can be little doubt that an individual is irresponsible for acts committed by him while affected by this disease in its acute form, which if committed at another time would be criminal.* Indeed, upon the ground that the habitual drunkard suffers from actual cerebral disease, that drunkenness after frequent repetition, from the increased action of the brain, degenerates first into constant irritation and afterwards into real inflammation, that the coats of the vessels are thickened and lose their transparency, that the cerebral texture has diminished delicacy and elasticity, and that slight effusions of water are by no means uncommon, it might be predicated that responsibility would also be diminished with the diminution of all the functions of a healthy brain. Such pathological changes cannot take place without a corresponding change in the mental capacity, and as criminal responsibility is impossible except where there is sufficient mental capacity to understand and appreciate the proximate results of actions in many cases of *mania a potu*, it would be absurd to regard the individual as criminally responsible.†

It is true that these pathological changes are induced by voluntary indulgence, and in the discussion of the question as to the degree of liability which attaches to one who whilst intoxicated commits a

* Reg. *v.* Simpson, Appleby Summer Ass., 1845; Reg. *v.* Watson, York Winter Ass., 1845.

† See the remarks of Mr. Justice Story in the case of Alexander Drew (3 American Jurist, 7—9; 5 Mason's Report, 28). In one case it is said to have been held that "if the insanity were the offspring of intemperance and the person *knew* that intoxication would produce it he could not plead it as an apology."

crime, Parke, B., said, "If a man voluntarily makes himself drunk, that is no excuse for any crime which he may commit whilst in that state; he must take the consequences of his own act, for many crimes would otherwise go unpunished."* Still it would be utterly absurd for the law to hold that a man was responsible for any act committed by him during a period of incapacity if that incapacity was produced by a voluntary act, however far the cause and the effect were dissociated as regards time. If such were the law it would be impossible to make out real irresponsibility, for it would amount, in many cases, to an impossibility to determine the question as to whether any ordinary mental disease was caused by the acts of the individual or by the inexorable circumstances of an environment in space and time which fate determines. We would go too far to endeavour to trace the fault of rendering oneself incapable to such a remote past, because it is only fair to hold a man responsible for consequences which an ordinary understanding could recognise as likely to follow from immediate acts. True, to the wise man evil must arise in time to come from any unvirtuous action in the present. But the laws were not framed with reference to wise men, but mostly with a careful regard to fools. So it would be anything but just to regard the volitional element in the inception of a series of events as giving a character of criminality to any subsequent act which happened to be against the laws, for it is evident that the cerebral conditions may become in time an efficient cause of the act without the intervention of will, and even in spite of the very strongest motives which would lead in an ordinary individual to abstinence from the act in question. There are prejudices in men's flesh. We have in another place considered the characteristics and legal relation of such drunkenness as is due to that kind of moral mania which has been called dipsomania. It is unnecessary in this place, although it bears upon the subject of *mania a potu*, to mention those cases which prove that there is an irresistible temptation in certain relations to commit criminal acts. Motives seem sometimes to lose their weight in disease as lead would if weighed in water. Promises however solemn, resolutions however earnest, punishments however severe, have no effect upon the brain, which sits like a constitutional monarch at the mercy of that rabble of desires. The future, which to an ordinary unclouded intellect

* R. *v.* Thomas, 7 Car. & P. 820; 4 Stevens' Com., p. 113, citing Coke, 1 Inst. 247.

would be full of causes for apprehension, to a man who has given himself up to the influence of stimulants, has no warnings. Nature has a rod in a pickle of salt tears, and he will not take heed; many cases prove this; many will be in the recollection of most of our readers.*

The periodicity of inebriety is a somewhat remarkable characteristic. Some weight has been laid upon this circumstance as proving the similarity of the pathological conditions in cases of drunkenness arising from voluntary indulgence and passing into habitual excesses, and the moral mania of drunkenness. Such an inference seems warranted upon other grounds, and seems scarcely to follow directly from the mere fact of periodicity. Periods seem a somewhat basal arrangement of nature. Everything tends to become periodic. The whole progress through time of animal economy is marked by periodic changes and reversions; and when we find that this is the case, it is easy to conceive that any grafted habit should follow to a certain extent in its mode of existence the tendencies of that upon which it is grafted. Hence the periodical character of drunkenness. Even volition, which seems to be an independence of conditions, becomes periodic. Habit is always busy making rust in the locks of character which are not used. Cases have come under our own observation which prove this fact. Many individuals, with the circumstances of whose cases we are familiar, seem strong to do right,—seem capable of resisting any temptation, however safely the indulgence might be enjoyed, and who, after some months of this virtuous abstinence, have again returned to the old habit, have again become possessed by the devil, which was not dead but sleeping. We find this same law exemplified in the action of the normal appetites. When hunger has been allayed, a man is disgusted at the sight of food. When lust is satisfied a man is very virtuous. So it is sometimes in this vice of drunkenness, which has passed from the anteroom, vice, into actual disease, the devil's inner chamber. Was it not the devil and sin brought death? These circumstances may serve to explain to some extent the periodicity of habits of intemperance. There may be and often is a habit of periodicity.

II. In considering the legal consequences of drunkenness it is usual to quote Sir Edward Coke, who says, "A drunkard who is *voluntas dæmon* hath no privilege thereby, but what ill soever he doth, his drunkenness doth aggravate it."

* See Macknish's 'Anatomy of Drunkenness.'

There is much truth in Montesquieu's remark, that the error of drinking to excess depends much upon the climate and temperature of the country of the persons who indulge. While some highland drovers can drink a whole bottle of whiskey without evil effects, the same quantity of stimulants taken by an individual in a warmer and more relaxing climate would cause dangerous intoxication. The habits and occupations of the individual have much to do with the amount of influence alcohol obtains over the system. So that when Montesquieu says, "A German drinks through custom, founded upon constitutional necessity; a Spaniard drinks through choice, or out of the mere wantonness of luxury; and drunkenness," he adds, "ought to be more severely punished where it makes men mischievous and mad, as in Spain and Italy, than where it only renders them stupid and heavy, as in Germany and more northern countries,"* he made an excellent remark. "So in Greece," says Puffendorf, "the law of Pittacus enacted that he who committed a crime when drunk should receive a double punishment—one for the crime itself, and the other for the inebriety which prompted him to commit it."† The Roman law, on the other hand, admitted drunkenness as an excuse for crime.‡

The law of England, as we have seen from the judgment of Parke, B., in Rex *v.* Thomas,§ holds that, if a man with his eyes open places himself in a position from the circumstances of which harm is likely to arise, he is to be regarded as responsible for those acts which are hurtful; and the law of Scotland has recognised the same principle.‖ Thus, to deal with the criminal responsibility of drunkards in the first instance, when homicide is committed by a man in a state of drunkenness, this is held to be no excuse for the crime. If the drunkenness was induced voluntarily it is not admitted as a ground of irresponsibility. The fact that the individual did not contemplate the crime when sober, even if proved, does not remove the responsibility.¶ However, as a malicious intent is necessary to constitute the crime of murder, and as a malicious

* 'Spirit of Laws, B. xiv, c. 10.'
† Puffendorf's Laws, B. viii, c. 3.
‡ Ff. 49, 16, 6.
§ Suprà, p. 165, 252.
‖ Erskine's Principles, p. 730.
¶ Reg. *v.* Reeves, Derby Winter Assizes, 1844.

intent is only to be inferred from the acts of the party, it has been held to be wrong to infer a malicious intent so strongly against a man if drunk as it would be if he had the full use of his faculties; but "where a dangerous instrument," says Alderson, B., "is used, which, if used, must produce grievous bodily harm, drunkenness can have no effect on the consideration of the malicious intent of the party."* It is evident, then, that a state of drunkenness which would render void any civil act will not exonerate from the consequences of the crime of murder. It seems to have been held in one case that when on a charge of murder the material question is whether an act was premeditated or done only with sudden heat and impulse, the fact of the party being intoxicated would be a circumstance proper to be taken into consideration.† This, however, has been held not to be the law.‡

There are cases where, owing to some physical injury done to the head of an individual, a very small amount of stimulation will produce drunkenness, and drunkenness will lead to a fit of temporary insanity. The law of England makes no distinction between an act committed by an individual affected in this way and the act of an ordinary drunkard. But what is law is not always right. It is evident that if through some bodily infirmity a man, under the influence of a small quantity of stimulants, becomes insane, any act he may commit during such temporary insanity is partly due to the infirmity as well as to the voluntary act by which he submitted himself to the influence of the intoxicating liquors. It may be argued that the man might have refrained, and that if distinction was to be drawn between his and any ordinary case of drunkenness there could be no reason for not taking the capacity of each individual to take stimulants into consideration in every case. That as it is a fact that men can upon one occasion drink with impunity what upon another occasion would produce drunkenness, a man might be recognised as irresponsible to-day for an act which, if committed yesterday, would have been criminal.§

* R. *v.* Meakin, 7 Car. and P., 297; Reg. *v.* Crure, 8 Car. & P., 546. See also 'Law Times,' 27th Sept., 1845, p. 542.

† R. *v.* Grindley, Worcester Sum. Ass., 1819, 1 Russell on Crimes, 4th ed., p. 12.

‡ R. *v.* Carroll, 7 Car. & P., p. 145.

§ Dr. Beck, in his work upon 'Medical Jurisprudence,' speaking of the case of William McDonough, who subsequently to having received a severe injury to the

But it is not upon such grounds that a distinction should be drawn. It would unquestionably be absurd to say that any act committed by a man who got drunk after drinking, in his estimation, moderately—or drinking such a quantity as he had repeatedly imbibed without any loss of voluntary power—should be regarded as irresponsible for the criminal acts which might ensue. It is true that such fine distinctions are out of place in law, but it is also true that the law might recognise the fact that there is in almost all those cases in which temporary insanity follows upon the use of stimulants in those who have suffered from some cranial injury or diminution of the power of self control, a loss of the capacity to judge accurately concerning acts and their consequences. So that in such a case a man does not "voluntarily make himself drunk," and if he suffers punishment for the act committed during such mental aberration he no more "takes the consequences of his own acts" than a horse which is whipped because it carried a man to a place where he stole does.

In many cases delusions and illusions result from continuous drinking. Marc mentions a case in which one of two friends who, when intoxicated, killed the other under the impression that he was an evil spirit.* In this case it was held that the drunkenness was voluntary, and the accused was condemned to ten years' imprisonment with hard labour.†

With regard to the capacity of a drunkard to contract, it was formerly held that intoxication afforded no ground for the repudi-

head suffered from occasional paroxysms of insanity which were produced by intoxication, and in one of which he killed his wife, said, "The voluntary use of a stimulus which he was well aware would disorder his mind fully placed him under the power of the law." "If, however," says Alison in his 'Principles of the Criminal Law of Scotland' (p. 654), "either the insanity has supervened from drinking without the panel's having been aware that such indulgence in his case leads to such a consequence; or if it has arisen from the combination of drinking with a half crazy or infirm state of mind, or a previous wound or illness which rendered spirits fatal to his intellect to a degree unusual in other men, or which could not have been anticipated, it seems inhuman to visit him with the extreme punishment which was suitable in other cases. In such a case the proper course is to convict, but in consideration of the degree of infirmity proved recommended to the royal mercy."

* See Reg. *v.* Pattison, quoted in Taylor's 'Medical Jurisprudence,' p. 1128.

† As to illusion and its effect on responsibility see Reg. *v.* Price, Maidstone Summer Ass., 1816.

ation of a contract entered into by a party during its continuance.*

Now, however, the doctrine, that a person who has contracted, even by deed, whilst intoxicated to the extent of being no longer under the guidance of reason, and of being incapable of judging of the consequences of his act, may successfully dispute his liability in respect of such a transaction, is established.† So by the law of Scotland drunkenness will be a ground for setting aside a marriage entered into by a party in a state of intoxication.‡ There has been a distinction drawn between *express* and *implied* contracts in so far as the capacity to contract during a period of intoxication is concerned. When the right of action, it has been said,§ is founded upon a specific distinct contract requiring the assent of both parties, and one is so drunk as not to be able to assent, there can be no binding contract, "but in many cases the law does not require an actual agreement between the parties, but implies a contract from the circumstances; in fact, the law itself makes the contract for the parties. Thus, in actions for money had and received to the plaintiff's use, or money paid by him to the defendant's use, the action may lie against the defendant even though he may have protested against such a contract."

So a tradesman who supplies a drunken man with necessaries is entitled to recover the price of them if they are retained by the party after the intoxication has passed away. It is to be remembered that there is a strong presumption of fraud in the case where a person has taken an obligation from an individual intoxicated, at the time known by the contractors to be so.‖

With regard to the restraint of drunkards something remains to be said. The English law refuses to interfere with the liberty of an individual, even although he may be an habitual drunkard. The law of England has a superstitious respect for the liberty of the subject.

* Beverley's case, 4 Rep. 125 a, per Parke, B., 13 M. & W. 626; Co. Litt. 247 a.

† Gore *v.* Gibson, 13 M. & W. 625; per Sir W. Grant, M. R. Cooke *v.* Clayworth, 18 Ves. 15, 16, followed by Sir E. Sugden in Nagle *v.* Baylor, 3 Dr. & W. 64 and 65; Shaw *v.* Thackray, 17 Jur. 1045.

‡ Erskine's Principles, Smith's edition, p. 109; Johnstone, 2 S. 495.

§ Per Pollock, C.B., 13 M. & W. 625—6.

‖ Levy *v.* Baker, Moo. & M. 106 n, per Parke, B., 13 M. & W. 126. See Sentance *v.* Poole, 3 Car. & P. 1. See also Story, ss. 230, 231, 233.

And so out of respect for the theory it allows an individual to deprive himself of all liberty, to place himself in a position in which there are numberless temptations to crime, and no protection for the commission of criminal acts, to cultivate disease in himself and others that may come after him, and to sow the seeds which will grow up either in crime or insanity in the next generation. But no, the law of England will not restrain the habitual drunkard. Belgium and Sweden have passed measures for the restraint of habitual drunkards. America has already legislated for inebriates. Canada has within the last year passed an excellent "act for the interdiction and cure of habitual drunkards;"* and the necessity of restrictive measures has been felt both in Australia and New Zealand.† And still England will not interfere. It is calculated that there are about 60,000 lunatics in England and Scotland, and that there are not less than 600,000 habitual drunkards. And it is believed, upon such evidence as can be procured, that not less than 50,000 or 60,000 lives are lost annually in England through accidents and diseases caused by the abuse of intoxicating liquors, and yet England will not tie the hands of those suicides—because alcohol is a slow poison. The liberty of the subject is allowed to render persons, in the words of the Canadian Bill mentioned above, "of grievous injury as well to their relations as to their creditors;" it is allowed to stand in the way of the reclamation by a "reasonable and regular course of

* Assembly Bill, No. 24 (1870). The use of the Canadian bill, which provides for the interdiction and cure of habitual drunkards, will be found in full in Dr. Lauder Lindsay's paper.

The first clause provides that "on petition, under oath, presented to any one of the judges of the superior court of Lower Canada (who alone shall have the power to act) by any relations, whether of blood or by affinity, or, in default of relations, by any friend, of any habitual drunkard, setting forth that by reason of such drunkenness such habitual drunkard either squanders or mismanages his property (or places his family in trouble or distress, or transacts his business prejudicially to the interests of his family, his friends or his creditors; or that he uses intoxicating liquors to such an extent that he incurs the danger of ruining his health and shortening his life thereby); such judge, for any such reasons established before him to his satisfaction, may pronounce the *interdiction* of such habitual drunkard, and appoint a *curator* to him to manage his affairs and control his person as in the case of one interdicted for insanity." And the third clause provides that "the interdiction of any person interdicted as an habitual drunkard shall have the same effect as those conferred by the law in force in this province in the case of interdiction of any person for *insanity*."

† See paper by Dr. Lauder Lindsay, 'Edin. Med. Jour.,' Sept., 1870.

treatment of many who might be made useful citizens of a state, which is exhausted with the weight of its burden of disease and crime."

One thing is certain, and that is, that long-continued habits of intemperance, even when they do not induce insanity, almost invariably render the individual incapable of managing his own affairs with any efficiency, and it would seem to be reasonable, and in conformity with the expressed opinions of physicians* in all countries to restrain individuals thus affected, and in this way give certainty of ultimate recovery. It is also true that the fear of being deprived of liberty might act beneficially upon the individual at the time when this baneful habit is only in the process of formation. A case described by Dr. Taylor† is somewhat interesting in this connection.

But, as yet, no measure exists in this country to prevent this most pernicious habit, or to mitigate the evils which arise from its indulgence. An unsuccessful attempt was made during the last session of Parliament to legislate for inebriates, but the health of the community, although it should be the first object of government, seems to be of small consideration in comparison with trumpery little rights of property. It is in keeping with England's character as a nation of shopkeepers that the excellence of its civil laws and their administration is beyond all question—almost beyond all rivalry; while its sanitary arrangements are of the most defective nature. It is only recently that health bills have received any general attention, and even now the attention which they do receive is inefficacious to secure anything like a satisfactory settlement of questions of the most paramount importance. And yet, is it not evident that the best laws in the world are thrown away upon a nation rotten with disease, and that even bad laws would do but little harm to a nation thoroughly healthy in the widest and truest sense of the word? Look what different growths Liberty has had amongst us here, who have to struggle, and on whose foreheads the fulfilment of the curse that Adam earned is seen, and amongst those who have had elbow-room

* See 'On some of the Medico-Legal Relations of the Habit of Intemperance,' by Professor Christison. Edinburgh, 1861. 'Annual Reports of the Commissioners in Lunacy for Scotland, 1859—1870.' 'The Social and Political Relations of Drunkenness,' by Professor Laycock. Dr. Dagonet in 'Journal of Mental Science' for 1866, p. 256.

† 'Medical Jurisprudence,' p. 1129.

in the world, and a land which brought forth abundance with but little toil. What are good laws to us if we cannot live? and if we can live, what harm can bad laws do if we live happily and healthily? Those persons who shut their eyes to the close connection which exists between disease and crime are careless observers. Those who, while they legislate for the latter ignore the existence of the former, are careless legislators.

CHAPTER XV.

ON APHASIA AND ITS LEGAL RELATIONS.

Aphasia is the name given to the disease which is manifested by a loss of the faculty of speech. This is a loss of speech which occurs while the organs of phonation are to all appearance perfect, and while the intellect is unimpaired. This deprivation is sometimes general and sometimes partial. Thus, in a case mentioned by M. Broca,* the individual answered every question by means of the single monosyllable "Tan," and Sir Thomas Watson† speaks of a gentleman who misappropriated words; thus, when he wished to say "camphor," he made use of the word "pamphlet;" and Dr. Bergmann‡ has described a case in which the memory was, owing to an injury done to the head by means of a fall, affected in a peculiar way. The man forgot proper names and nouns, and at the same time he had a perfect memory of things and places, and he could pronounce correctly any verb.

Many other cases might be quoted to show in what way the morbid conditions of the brain manifest themselves. However, it is not our duty in this place to do more than indicate the existence of such a morbid mental condition, and to point out in what way it may be recognised, and how its existence, when proved, must modify the legal relations of the individual in whom it occurs. This is not a place for the consideration of the interesting questions with regard to cerebral pathology which have arisen in connection with this subject, or to trace the curious confirmation which has been given by the modern physiologists, some of the ablest of whom have

* Sur le Siége de la Faculté du Langage Articule.

† 'Practice of Physic,' vol. ii, p. 511.

‡ 'Einige Bemerkungen über Störungen des Gedächtriess und der Allgemeine Zeitschrift für Psychiatrie,' 1849, s. 657.

ascribed aphasia to a lesion in the posterior part of the third frontal convolution of the left hemisphere, to the theories of phrenologists. A comparison of Dr. Bateman's papers* upon Aphasia with some of those contained in the 'Phrenological Journal'† will prove this interesting fact. There can, however, be no doubt of the existence of this very curious phenomenon, and it is manifested in various ways. Dr. Falret has made the following classification of some sixty-two cases which he has collected from various authors.‡ 1. All those cases in which the patients, whilst retaining intelligence and integrity of the organs of phonation, can only remember or articulate certain words or classes of words, or even certain syllables or letters, but who can repeat and write any word that may be suggested to them by others. 2. Those who are only able to pronounce spontaneously certain words, syllables, or phrases always the same, not being able to repeat other words dictated to them, and who yet retain the power of writing or even of reading. 3. Those more rare cases in which the patients can only pronounce certain words always the same, which, aided by gesture, enable them to express their thoughts, the power of reading, writing, and repeating words being abolished.

M. Broca mentions a very interesting case falling under the last of these three class descriptions. The individual who in this case suffered from aphasia used four words, and attached a definite meaning to each of these four. The words saved out of the wreck of a vocabulary were "*oui, non, tois* (for *trois*), and *toujours.*" When he wished to affirm he used the first, when he wished to negate he used the second. By the third he expressed all ideas of number, but he was conscious that it did not convey all his meaning, for when he wished to show that the number meant was more than three he held up his fingers. This gesture was an accurate indication of the state of the case. Whenever none of the three first words would do he used the fourth, *toujours*, which, as may be understood, had no very definite connotation.§ Now, these cases and many more of equal interest, which will be found quoted and narrated in the works already referred to, indicate the necessity of the recognition of this

* See 'Journal of Ment. Sci.,' vol. xiii, p. 521, vol. xiv, pp. 50, 345, 489. See also Trousseau's 'Clinique Medicale,' tom. ii.

† See vol. iii, pp. 26, 616, &c.

‡ 'Des Troubles du Langage,' p. 5.

§ See another case, 'Phrenological Journal,' vol. xii, p. 155.

disease by those persons who devote themselves to medical jurisprudence. If a man loses the faculty of speech, if he substitutes one word for another, if he says "No" when he wishes and means to say "Yes," if he has a vocabulary limited to four words, and at the same time is in possession of all his intellectual faculties, it is surely evident that he cannot occupy the same relation to his fellowmen that those persons do who are possessed of a sufficient vocabulary to carry them through life with its ordinary business transactions; and it is surely clear that, just as there are peculiar provisions for those who cannot write, so ought there to be some provisions for those who cannot speak. The four or five words of the man mentioned by Broca are very much in the same relation to his intelligence that an illiterate person's mark is to his. Most of the people who are dumb are dumb only because they are deaf, and the law, upon account of the impossibility of their acquiring any adequate knowledge, has looked upon them as idiots, but it is a very different matter where speech has been lost owing to some bodily disease or local injury. In these cases education has raised the individual to the ordinary level, and the mere obliteration of a piece of local memory, of a portion of a vocabulary, or the loss of power to concatenate the exact sound with its appropriate idea, does not deprive the individual of all the power to do many things as well as he did them formerly. And it is difficult to see why, when that is the case, the individual thus affected should be deprived of any of the civil privileges he is capable of exercising; and there can be no possible reason why, in case of the commission of a crime, the individual suffering from aphasia should be held irresponsible. Of course in every case due precaution must be taken that the act is performed or the words used are understood as the individual who is exercising a civil privilege wishes them to be done or understood. Just as in an English court a foreigner who cannot speak the language can, by means of a sworn interpreter, give evidence, so we would be inclined, after medical evidence had been heard as to the competency of the witness, to allow a person labouring under aphasia, by means of a sworn interpreter who understood the words or gestures of the patient, to bear testimony; and so with regard to all acts, such as contracts and testamentary acts, where by means of competent witnesses it is proved that the individual had the capacity as it is defined in another part of this work; and by witnesses on oath or

by affidavit, that the inappropriate words or gestures were properly interpreted at the time of the execution of the will or of the agreement of the contract, we would hold that the latter was binding and that the former was a good will. In every civil matter in which the possession of speech is not absolutely necessary we would, after similar precautions had been taken to ascertain the state of mind of the individual and his desires in the matter, allow to a person affected with this marked condition the exercise of every privilege and the enjoyment of every right. With regard to the criminal responsibility of persons labouring under aphasia nothing requires to be said. It is evident that, if a man is in a position to enjoy privileges and rights, he is in a position to respect those of others; at least, that is true in cases of aphasia.

CHAPTER XVI.

ON ACUTE DELIRIOUS MANIA.

It is a matter of much importance to a medical jurist to be able to distinguish between mania and maniacal delirium. We have seen that all insanity is due either to a functional or organic change in the nervous centres, but there is a kind of insanity which is called delirium which is due to an acute disease either in the brain itself or in some organ with which it sympathises. In the latter case the insanity is, as it were, grafted upon the bodily disease; in the former case it is a disease in itself. These two diseases not only differ in their origin, but the progress of each is very unlike that of the other. The prognosis is, of course, dependent upon these two things, the cause and the course, and it would be somewhat extraordinary if we found those widely different while the termination was the same.

The difference begins almost before the disease can be said to have commenced. The premonitory symptoms in cases of acute delirious mania are seldom well marked; indeed, instead of the patient feeling that there is something wrong for weeks and months, as is not unfrequently the case in the early stages of mania proper, the individual may awake from sleep delirious. It is, perhaps, more generally manifested in the first instance by muttering or talking during sleep, and by a want of recollection and recognition of the persons and things about him when he wakens from dreams. So it is we see that waking state, sanity, pass into that dream frenzy mania. In the earlier stages of the disease, however, this want of power of recognition is only transitory, and the patient when fully aroused is conscious of his position and surroundings. Soon, however, reveries become embodied as it were. The patient lies and mutters for hours together, he is no longer capable of recognising persons who are

familiar to him, although this power is only gradually lost, and after conscious efforts made to retain a coherence, and then the mutterings become louder, the listless inaction becomes endless activity, and the tongue is incessantly employed in uttering incoherent nonsense. Most diseases which have a fatal termination at some period of their course present symptoms of some disturbance of the mental functions, and many of them are accompanied, especially towards their termination, by the symptoms which we have to consider in this chapter. Thus, delirium arises in connection with organic diseases of the brain —for example, inflammation of its membranes,* or it may arise in the course or during the decline of such acute diseases as pneumonia, measles, or fever. It not unfrequently comes in connection with phthisis, acute rheumatism, or epilepsy. It may be induced by excessive fatigue, long continuance in the use of intoxicating liquors, or by the conditions which accompany parturition. It is also to be remembered that delirium is a symptom of poisoning by belladonna, henbane, and stramonium, that it frequently results from poisoning by other poisons which are classed under the head narcotico acrids, that it occasionally arises from overdoses of the pure narcotics, and may be brought on even by the action of some of the irritant poisons. When delirium does occur as a concomitant of inflammation of the mucous or serous membranes of the liver, spleen, or kidneys, it only appears when the disease is approaching a fatal termination; and the same observation is true of the delirium which sometimes supervenes upon a surgical operation.

With regard to the symptoms of this disease, when it does give warning of its approach it does so by means of flushing of the face, pain and throbbing in the head, and heat of the scalp. After the mental symptoms mentioned above have shown themselves, while the patient is labouring under the incoherence described and is unable to be aroused to any attentive effort, the eyes are generally open, dry, and bloodshot, and "staring so blindly!" The skin is generally dry, hot, and the patient is restless, and is inclined to indulge in continuous activity of some sort, which is occasionally rhythmic. Even his loud talk, his cries or exclamations, his uneasy tossings, have often a rhythmic character. The patient at this stage of the disease is generally very restless, and is with difficulty kept in bed. With regard to the peculiarity of the thoughts of

* See 'Reynolds' System of Medicine,' pp. 358, 417, 683.

those who are labouring under maniacal delirium it has been remarked that very often dead memories are brought to life again.

> "One sees the dungeons of a head
> When fever opens all the doors."

Thus, the case given by Coleridge in his 'Biographia Literaria,'* which is so often quoted in philosophical discussions, is one in point. It is that of a young girl who, while labouring under nervous fever, was found in her incoherence to be quoting Latin, Greek, and Hebrew, "in very pompous tones, and with most distinct enunciation." The explanation of this very curious phenomenon was simple. When the girl, who was in very poor circumstances, was only nine years old she had been charitably taken by an old Protestant pastor, and had remained with him until his death. It was ascertained that this pastor had been a very learned man and a great Hebraist; and amongst his books were found a collection of Rabbinical writings, together with several of the Latin and Greek fathers, and there was no difficulty in identifying many of the passages which the servant girl had quoted in her delirium. It was proved that all these passages had become a part of her memory by means of unconscious eavesdropping, for the pastor used to read aloud, and the girl must have heard him while she was at work in the kitchen.

Another somewhat similar case illustrating the curious resurrection of dead memories in dreams and delirium will be found in Lord Monboddo's 'Ancient Metaphysics.'† Where the disease, of which the delirium is a symptom is about to prove fatal, the incoherence and restlessness disappear, and are generally succeeded by coma, but occasionally just before death the mind becomes clear although enfeebled by disease. In this state the individual is quite capable of recognising his relations, can speak rationally, is cognizant of what is going on around him, and may often be in a position to do certain legal acts with all the mental capacity which is required by law. As this state may sometimes continue for some hours, and even in rare cases for days before death, its recognition by medical jurists is of the utmost importance. The distinction then to which we adverted, which exists between acute mania and

* Vol. i, p. 117 (ed. 1847).

† Vol. ii, p. 217. See also Rush on 'Disease of Mind,' p. 282.

acute maniacal delirium is one which it will not do to overlook. As a question of treatment difficulty will arise unless the distinction is clearly appreciated. In the one case it would be proper to suggest exercise and open air, and these should be procured even if a certain amount of restraint was necessary for the purpose; in the other such treatment would be most unscientific, and would accelerate the fatal issue of the disease. Again, with regard to the removal of the sufferer to an asylum the diagnosis is of paramount importance, for there are many patients who, if treated at home by friends, might probably recover, would by removal to an asylum be placed in much less favorable circumstances, and that, when no such removal was necessary, as for the short time which delirium lasts, all the necessary comforts and conveniences could be supplied at the patient's own residence. A mention of the points in which mania differs from delirium may be of some use.*

In mania the patient is capable of recognising persons and things, and is alive to the circumstances which occur in his presence. In delirium the patient is generally unable to make any distinctions, memories are confounded with perceptions, and are often more real than sensual impressions. It follows that in delirium there is an entire absence of the power of reasoning which is a faculty of relations, and where comparison is impossible there also ratiocination is unattainable. In delirium there is a chaos of ideas, not one stone of the mental house has been left upon another; the individual is sane in nothing; ideas have lost all the molecularity which gives them coherence.

In mania, however, this is not the case. The individual does reason; the laws of association have been tampered with, but they still exist. The individual can at times be coherent and rational. He retains command over his muscles, will occasionally understand and laugh at a joke, can occasionally follow for a short time the windings of a conversation, and can often be made to see the ridiculous character of his conduct. His senses are acute, the bodily functions are undisturbed. The health is not materially impaired, and the presence of mania is not a cause for the apprehension of immediate death, although it does shorten life. In

* Two cases are described by Dr. Maudsley in the 'Journal of Mental Sci.' (vol. xiii, p. 59), which illustrate some of the distinguishing features of these two conditions.

delirium, on the other hand, there is muscular prostration, sensation is impaired, every bodily function is more or less interfered with, and the disease with which it is associated is speedily terminated by death or by restoration to complete health. As delirium is, as it were, a parasite upon another disease, its life is determined by that of the disease of which it is the concomitant; when that is aggravated it is increased; when that is removed it ceases to exist. One other feature has been remarked with regard to this morbid condition which is not unworthy of notice, and that is, that while mania never occurs until after the age of puberty delirium has, like death, "all seasons for its own."*

* See with regard to delirium Georget in 'Dict. de Médecine,' t. vi, p. 395; Esquirol in 'Dict. des Scien. Med.,' t. viii, art. "Délire."

CHAPTER XVII.

ON THE LEGAL RELATIONS OF MANIACAL DELIRIUM.

In relation to delirium there can be no question as to the existence of lucid intervals. Sir John Nicholl has said, "in cases of permanent, proper insanity the proof of a lucid interval is matter of extreme difficulty, and for this among other reasons, namely, that the patient so affected is not unfrequently rational to all outward appearance without any real abatement of his malady; so that, in truth and substance, he is just as insane in his apparently rational as he is in his visible raving fits. But the apparently rational intervals of persons merely delirious, for the most part, are really such. Delirium is a fluctuating state of mind created by temporary excitement, in the absence of which, to be ascertained by the appearance of the patient, the patient is most commonly really sane. Hence, as also, indeed, from their greater presumed frequency in most instances in cases of delirium, the probabilities *a priori* in favour of a lucid interval are infinitely stronger in a case of delirium than in one of permanent, proper insanity, and the difficulty of proving a lucid interval is less in the same exact proportion in the former than it is in the latter case, and has always been so held by this court."*

When, then, lucid intervals can be proved to exist in the course of delirium, it would be very unjust to deprive individuals who may be thus affected of exercising those privileges which during health they have a right to enjoy. Thus testamentary dispositions made during the intervals of febrile delirium ought, if the lucidity of the interval can be proved, to be upheld. It is not, by any means, uncommon to find that wills made under such circumstances are

* Brogden *v.* Brown, 2 Addams 441. See also Evans *v.* Knight, 1 Ad. 229, and Lemann *v.* Bonsall, 1 Ad. 383.

disputed, and there may be reason for this if there is the least suspicion of improper or undue influence exercised upon the mind of the testator. The purpose of the law is to strengthen the weak against the strong; and there is an Indian fable which says that the God Brahma inquired of the Spirit of Power, "Who is stronger than thee?" and the spirit answered, "Cunning." The law ought, and is, to be most careful in inquiring into the volitional character of every act done by those who are weak, and it is upon this principle that courts of equity extend their especial protection to sailors and marines. So it is that, in those cases in which wills have been executed during a sane interval in an attack of delirium, great caution is required in ascertaining that neither intimidation nor fraud of any kind was made use of, because, as we have seen, the mind is invariably enfeebled even during the existence of these lucid intervals, and what would not to a strong man seem a motive is compulsion to a weak one.

The law, while it ought to allow and does allow the full exercise of the testamentary power under the conditions indicated above, would do well to exclude such individuals from the exercise of other rights, such as that of entering into contracts, or ought to give them the same protection and support as it does to minors, whose contracts are good if they are advantageous to the interests of the infant, but not otherwise. At least, it ought to be an acknowledged rule that all contracts entered into during the lucid intervals of a disease accompanied by delirium, should be looked upon with suspicion, and a presumption should exist as to their invalidity. This presumption, however, might be liable to be rebutted by proof that the delirium was only an occasional symptom of the disease, that the attacks were of short duration, and that, when the individual was free from delirium, he was calm and rational.

With regard to the capacity to make a will, one or two cases may be cited. In that of Evans *v.* Knight * the testator died upon the 24th of April of pneumonia. The latter stages of this disease had been marked by delirium, and it was proved that he had executed his will only three days before that on which he died. Two medical men were examined in this case: one, who had seen the testator on the 21st, or the day on which he made his will, deposed that "he was not in a state of sound mind, memory, and understanding, or capable

* 1 Addams 229.

of doing any act requiring the exercise of thought, judgment, and reflection." The other, who had seen the testator on the 23rd, expressed an opinion that it was extremely "improbable that the deceased should have been free from wandering and mental affection on a day so shortly before he saw him as the 21st." It was, however, proved that he had given instructions for a will without having any suggestions made to him by the solicitor, who reduced them to writing, that subsequently they were read over to him, and that he had signified his approval and subscribed them. Not only did the act itself and the way it was done prove him to be rational, but several witnesses testified that, during the whole time he was giving his instructions, he was calm and conducted himself with perfect propriety, and as he would have done before he was taken ill. In this case the court pronounced in favour of the disposing power of the deceased.

In another case, that of Brogden *v.* Brown,* the testatrix died of an acute disease after an illness of ten days. For two or three days before her death she was at frequent intervals delirious. She executed her will on the evening of the day preceding her death, and its validity was called in question on the ground that she was not of sound and disposing mind at the time of its execution. The evidence of two medical men, who were examined in this case, was very like that of the two physicians in the last-mentioned case. They both regarded her as incapable of making a will at the time alleged, and they had somewhat good grounds to go upon, as they had seen her only a few hours before the time at which the will was made. The evidence of a third medical gentleman was in favour of the theory of disposing capacity, as he regarded the delirium due to paroxysms of pain suffered by the deceased, and was of opinion that, during the absence of pain, there would also be a complete absence of the abnormal mental symptoms. It was proved that the will was read over to the deceased, and that, when it was placed before her as she sat propped up in bed, she signed her name in the usual way, with the accustomed dash below. The validity of this testament was held to be established by the court.†

* 2 Addams's Rep. 441.

† See also Cook *v.* Goude and Bennett, 1 Hagg 577; King *v.* Farley, 1 Hagg 592; Waters *v.* Howlett, 3 Hagg 790; Bird *v.* Bird, 2 Hagg 142; Martin *v.* Wotton, 1 Lee 130; Bittleston *v.* Clark, 2 Lee 229; Marsh *v.* Tyrrell, 2 Hagg. Ecc. Rep. 84.

It will be evident to any one who peruses any of the cases which have come before the courts of this country, that the circumstances connected with the testamentary act are those which are most carefully considered in the decision of questions of capacity, when there is a possibility that the individual may have been deprived of the disposing power by the existence of mental unsoundness; or, in other words, the testamentary capacity of an individual is to be determined mainly by the nature of the act itself. If it is such a will as we should have expected the individual to make while he was in a state of health, if the disposition of his property has been guided by his normal feelings and affections, if it is in no way inconsistent with his known desires and wishes, there will be a strong presumption in favour of the validity of the testament. Again, if it is consistent in itself, the presumption is strengthened, and so it will be if the will is only a slight and reasonable alteration of a former testamentary instrument executed by the individual while in a state of health. All these circumstances bear closely upon the question as to whether a will made by an individual in a supposed interval between attacks of delirium shall be regarded as, indeed, the will of the testator and established, or as an instrument extracted by undue persuasion or fraud from a person who was not capable of expressing a rational desire with regard to his property, and shall in consequence be held invalid.

Slight remissions occurring in the comatose sleep, which is a symptom of some diseases, are not to be regarded as lucid intervals.*

If these principles are had regard to in the determination of questions which may arise as to the validity of testaments and the legality of certain other acts, executed and performed during a lucid interval in an attack of maniacal delirium, or that return to mental clearness which occasionally precedes death in such cases, little difficulty will arise.

There is no subject connected with the medical jurisprudence of insanity upon which the law can be said to be more definitely laid down. There are few subjects upon which medical men and lawyers differ less than that of the legal relations of those persons who labour under acute delirious mania.

* Bridges *v.* King, 1 Hagg 256.

CHAPTER XVIII.

FEIGNED INSANITY.

If the law has been slow to adapt itself to what may be regarded as the results of modern science, those persons who are the exponents of what the results of modern science are have themselves to blame. If the definition of legal irresponsibility is such that it is calculated to suffer the punishment of many who ought to be exempted from the consequences of their criminal acts, it is so in consequence of the thorough incompetence of many medical witnesses to distinguish between real and feigned insanity. To demand that the law should sail close to the wind of science, which seems at best to be a wavering draught or squall, is to demand too much. The judges very properly decided, as it seems to us, that it was better to have too narrow than too broad a definition of legal insanity; that it was better for the interests of the community that some persons who might not in strictness be responsible for their acts, should suffer punishment for their misdemeanours, than that many, who were really responsible to the laws, should, through too wide a definition of insanity and the incompetence of those who in individual cases were summoned to say whether insanity was real or counterfeit, escape the merited punishment of their crimes. And the judges were right. Until very recent times medical men were not in any way trained to a knowledge of insanity; and where members of the Profession who might have obtained some reputation in other branches of the profession were placed in the witness box to give evidence as to the mental condition of a person accused of a crime, it can be easily understood that their evidence was most unsatisfactory. Even at the present day the precautions taken by medical educational institutions and examining boards, that those to whom they give degrees

and licences should know something of insanity, are most defective. We are glad, however, that one or two of our largest and best conducted hospitals for the insane now give opportunities to medical men to become practically acquainted with the symptoms and treatment of mental disease. And a day may come when the word "expert," as applied to those who profess to be informed as to the important questions of medical psychology, may lose that tinge of irony which, in the eyes of lawyers, at present, attaches to it. That the law has been slow to adapt itself to recent scientific knowledge in relation to mental disease, is due to the fact that the medical profession has not, as a whole, adopted the results of those investigations, and that at the present time the knowledge of insanity diffused among the ordinary ranks of the profession is thoroughly inadequate. Any one who has taken the trouble to examine the medical certificates, upon which, under the present law, lunatics are confined in asylums, must have been struck with the slovenliness and ignorance of those who filled up the printed form. In the first place, those medical gentlemen, in many cases, seem either to ignore the existence of a rubric—which directs them what to do—or to be unable, if they do read it, to understand its perfectly intelligible requisites; and, in the second place, the statement of the "facts indicating insanity observed by myself," or communicated by others is generally most unsatisfactory. One medical man gave as the only fact indicating insanity, observed by himself—"Called me a fool," while another, evidently ignorant that "to drive unicorn" means to drive a team of horses, in a particular way, stated that the individual "believed he had driven a unicorn." Can it be a matter for wonder then that many members of the medical profession have found much difficulty in distinguishing between insanity which is real and insanity which is assumed, or that lawyers have been in general very suspicious as to medical testimony, and unwilling to take it for what in some cases might be its real worth. When there are many false coins going about, a good shilling may now and again be refused; and one is not to be blamed if they give every sixpence "a ring" on the counter. The way to remove the stigma is, in the first place, to remove the justice of it! The best way for the medical profession to begin the reform is not to alter the law, but to see that it is in future better educated!

But how are we to detect feigned insanity? 1. In idiocy; 2. In

imbecility; 3. In dementia; 4. In mania; 5. In partial intellectual mania, monomania, and melancholia.

1. *In idiocy.*—It is well to remember that the greatest difficulty in the decision of the question as to whether an individual is feigning insanity or not, arises in consequence of the fact that many insane persons will, under similar circumstances, resort to precisely the same expedients as those who are sane. If a person who really is under the influence of an insane delusion sees that it is for his advantage that he should be thought insane; if he is aware that the belief in his insanity will exempt him from the consequence of some foredone act, the mere existence of an insane delusion does not preclude the possibility of his feigning an insanity under which he does not labour. This fact seems to have been overlooked by almost all writers on the medical jurisprudence of insanity. That this circumstance complicates the question is evident. Many of the tests which are in ordinary circumstances applied to decide the question—as the inquiry respecting the beginning of the insanity (the early symptoms of the disease being those in which feigners usually fail), the questions as to hereditary tendencies, as to previous attacks and the like—are, to a great extent, rendered useless. That the delusions of many persons are modified by motives, much less powerful than the above-mentioned, as, for example, by the questions and laughter of a little knot of listeners, we have often observed, and have found, that even to enjoy the pleasure of being laughed at, the pleasure of attracting notice, persons with many extravagant delusions would upon occasion exaggerate and vary the statement of their unhealthy impressions. In most cases, however, in which a healthy mind, or one which looked at in reference to the ordinary minds of mankind, may be looked upon as healthy, undertakes the task of feigning insanity, the difficulty of detection is not great. Two things are necessary to ensure a correct conclusion—care and time. Time fights for truth! Idiocy, then, is a form of mental unsoundness very rarely assumed, in consequence of the facility with which its genuineness can be ascertained. The history of the individual which can in these days be more easily traced than in times gone by will, in all cases, show whether it is feigned or real. The form of the head is a symptom which cannot be feigned. No man by taking thought can take away that deformity any more than he can add a cubit to his stature. There are often other deformities

associated with idiocy, and for those who have to decide a question as to real or feigned insanity, it is most useful to remember that those symptoms only which are quite beyond the power of the individual are, as it were, the rock on which to build their theory—for, after all, the answer to that question is a theory and nothing more—while the other facts, which must be had recourse to, are like the sand, and winds of doctrine may lay it in ruins!

2. *In imbecility.*—But there may be great mental weakness, and the form of the head may not be indicative of the defect. In such cases the imbecility is not congenital, but acquired. The history in such cases is of the greatest importance, and the supposed cause of the enfeeblement should be very carefully sought for. In such a case the impostor would prove too much, by assuring us that he had been in his present condition since his birth. The cause assigned, and the nature of the malady, will in most cases of imposture discover the trick by the inadequacy of the one to the other. It is to be borne in mind that it is in reference to the "outside" facts of the disease that errors will ordinarily be found. All the acts which get out of the dominion of will, and become automatic, will differ in the case of an impostor and in the case of a real imbecile. The history of the case, as showing his opportunities for becoming acquainted with the symptoms of the disease, should be carefully studied; and yet due weight should in each case be given to the force which unconscious imitation is known to exercise over a weak mind. The physiognomical diagnosis of expression is a very important point in all cases in which simulation of insanity is suspected; and skill in this department of the work of the medical jurist is only to be acquired by a long and careful experience—to be best learned, it seems to us, in the wards of our hospitals for the insane. The description of a "look" is difficult. To say that the imbecile has a dull, stupid, vacant look is true; that his manner is uneasy, that his temper is variable, and that sometimes the dead level of his mill-pond existence is broken by a little eruption of passion is likewise true. But the description would do for many other persons besides imbeciles. By careful watching, gleams of the smothered intelligence will be seen to shine through, or flash out of the impostor's face, and it seems to us that an experiment by means of the introduction of some object likely to excite curiosity or wonder into the presence of the individual suspected of imposture, would often serve to un-

cover the ambush intelligence. In many forms of imbecility there is a mixture of folly and acuteness. Many of the stories told in Scotland of their village fools, or "naturals," proves this; and the ordinary test that while the real imbecile is shrewd or foolish irrespectively of prospective interest, the impostor is shrewd in all matters connected with his scheme and its success, and shows his folly and stupidity only in connection with matters of indifference, is, it appears to us, unsatisfactory! One thing seems somewhat certain, and that is, that this form of insanity is not often assumed, first on account of the fact that this amount of imbecility, even when really present, is not necessarily incompatible with responsibility; and, secondly, on account of the difficulty of impressing individuals with the idea of insanity, and its existence in one who manifests many signs of intellectual activity. When this amount of unsoundness does occur, it is not unfrequently accompanied by sufficient self-control to enable the individual at certain times (when it suits himself) to appear perfectly sane. And when such an amount of self-government exists, the individual, whether labouring under mental defects or not, seems to be properly punished on account of a proved transgression.

3. *Dementia.*—Dementia may be, and sometimes is, simulated by aged persons. In most cases, however, it is not a sufficient demonstrative form of insanity to find favour with impostors; and it is so imperfectly understood, and so commonly confounded with simple dotage, that its adoption is rare. The characteristic of senile dementia is a deficiency of mental excitement; there is a torpor of all the faculties; in it the mind is like an engine working under defective pressure. One circumstance which has led to dementia being confounded with the defects of age is, that one of its symptoms is that memory loses hold of events near to the present in point of time, sooner than it does of those events which are more distant. Delusions which do come, fancies which take possession, are generally connected in some way with a substrate fact of the past life of the individual; and there is a gradual decay, which the impostor would find it impossible to simulate; indeed, one rule for the guidance of the medical jurist in all these cases might be:—Look always for gradual changes in cases of real disease; look for sudden transitions in cases where the will of the individual is attempting to take the place in the production of physical events—of the great slow laws of

nature. This is a good rule! The will jumps—the law of nature creeps! The gradual decay above alluded to is marked by the darkening of that glass through which the senses, at best, darkly see! The power of recognising persons, places, and things goes, and there is no return. The mind lies in circumstances, like a waterlogged ship in the waves. *Sans* everything! Even in this stage of the disease a man might commit crime, or, in other words, might do harm to himself or others. But little or no difficulty is likely to arise from attempts to feign senile dementia in this its last stage. There is an actual repugnance in strong humanity to sink so low—to seem so weak. After death Cæsar's clay may keep the wind from whistling through a chink, but not before. We find then, as a fact, that it is rather those forms of mental disease which arise from undue excitement that are chosen for imitation by impostors, than those which arise from defective development or diminished activity of the faculties. It is to be remembered, with reference to dementia and our diagnosis of it, that where it is not the result of some severe mental shock, it is the consequence of organic disease of the brain, which almost invariably, in time, reveals itself in paralysis. So time fights for truth here too!

4. *Mania.*—There is a method in all madness! But the method which is in mania, and is the result of the regular laws of unhealthy action, differs widely from the method which is imposed upon the incoherence of simulated madness by thought. The very close observation of mental disease by one of a sufficiently powerful intellect thoroughly to understand and appreciate its manifestations, might lead to such a deceptive reproduction of a number of symptoms as to puzzle many individuals, not trained to distinguish between very fine shades of expression as indicative of varying springs of action. And the tendency which the human mind has to make real and earnest what may be begun in fun and frolic, or may be undertaken with the sole object of deceiving, is one thing which tends to complicate the investigation. Good acting will often give a shape to life. The story is told of Mrs. Siddons, that on one occasion after a successful representation of *Lady Macbeth*, she was found wandering about the passages which lie beneath and behind the stage, wringing her hands and muttering, "I can't get out,"—so does the ideal become the real! It is the history of the making of all things!

But it is to be remembered that those who have occasion to feign

insanity are not those who are qualified to give a faithful representation of the whole life of an individual under the influence of mental disease, and that their opportunities have not been such as to enable them to become intimately acquainted with the whole of the manifestations of the abnormal state. And, owing to the circumstances, the difficulty of feigning insanity so as to deceive a physician well acquainted with the disease is very great, so great, indeed, that Dr. Conolly affirms—"That he can hardly imagine a case which would be proof against an efficient system of observation."*

One observation which is of practical importance to those who are desirous of distinguishing the real from the imitated form of the disease is, that what the knowledge of the impostor lacks in extent, he invariably tries to compensate by the intensity of his acting. He over-acts the few symptoms with which he is familiar, while he neglects many other symptoms that have considerable diagnostic value. Where, therefore, a considerable exacerbation of prominent symptoms occurs, in conjunction with the absence of less easily observed manifestations, it gives, at least, a high probability of imposture. Where, also, there is considerable variation of the symptoms in the presence of different individuals—*ex. gr.*, where in the presence of a medical man, known to be such, the symptoms are more carefully produced, while in the presence of others they are produced in such a rough-hewn shape, as is calculated to carry, through a witness, to the medical man, the presumption is in favour of feigning. In most cases effort can be detected in all the assumed ravings—the effort of argument, for it is always the impostor's desire to prove to persons, who are present, and may be observers, that he is really mad; and, owing to this circumstance, the endeavour is not unlikely to fail: for persons really insane are, not unfrequently, in the presence of a stranger, calmer and quieter than at other times. There is always some assertion in the ravings of one who only feigns insanity. The manifestations are all prominent. Many discrepancies are to be found in assumed insanity. Mania is, really, the brain working under such high pressure that its ordinary action is interfered with. But there is no dulling of any of the faculties. Friends are almost invariably recognised; names, dates, occurrences, and places are remembered. The senses seem to be somewhat more acute than they were in times past. The impostor not unfrequently endeavours

* 'Inquiry concerning the Indications of Insanity,' p. 467.

to make assurance doubly sure, and introduces a few symptoms of dementia into the stratagem, and so he is discovered! In simulated insanity, the memory is often found to be defective: recent events with which the individual has been connected seem to be entirely forgotten, the impression of the malingerer being that silence is a stronghold. The real maniac almost invariably remembers all the events with which he was concerned, although his disease may cause considerable distortion of some of the facts. Through the madman's delusions and manifestations there runs a thread, which gives a sort of order and method even to the chaos of his thought; through the manifestations of him who would feign insanity this order is wanting. It is like the difference between a building which time, even while she beautified from her rouge pot, with lichens, tears down with slow inexorable fingers, and a building which the malice of mankind has razed to the ground and left not one stone upon another. The one has the order which a God-made chaos must have; it is pregnant with an order which will be born—the other is a chaos aforethought!

In the vagaries of the madman there is one invariable recurrence to the main drift of the delusion; in the impostor's delusions there is an increasing changeableness. There is an earnestness in the madman; he believes what he says for the most part. The earnestness in the man who imitates is only to produce a certain impression upon his audience. He has no affection for the shape of his delusion; he will alter it much and often to bring it more nearly to correspond with what he considers best suited to attain the end he has in view. In most cases a careful observer might trace a distinction corresponding to the above explanation in the mode of manifestation. The one—whose delusions are objectless—whose erroneous beliefs are ends in themselves, is unhesitating in their expression, his utterance is usually rapid, and his incoherence trips merrily from his tongue. The other, whose delusions are buoys to which he clings to save him from the waves of circumstance, whose erroneous beliefs are means to an end, takes time, he has to consider whether this will do under the circumstances; his style differs from that of the real madman, he hesitates, and his incoherence has the appearance of being studied. All these circumstances are calculated to show where certain manifestations have their roots—in the sad truth, disease—where in the sad untruth, a lie.

Not unfrequently much light will be thrown on the question of feigned or unfeigned (?) by the state of the affections and desires of the individual. Every thought a man thinks is shaped and fashioned in a mould of feeling. Thought is, as it were, the shape of a vessel; and feeling, as it were, the figuring and embossing, or painting, of the same. Thought, the skeleton; and feelings, the flesh and blood of a body. Now, in mania many of the most prominent features which marked the character are lost. As magicians could change gold to lead, so does this magician—disease—change love to hatred. Very often those persons that were loved best, while the individual was in health, are hated worst, when the individual is diseased. If suspicion is on the wing it alights upon some intimate friend, or near relation—home ties seem changed from blessings to curses; and a former affection seems to be reason good for hostility and war. There is no more promising symptom of a remission of the disease than a return of the rivers of the heart to their old courses. The man who would feign insanity invariably shows much animosity, but it is usually directed not against those who love him, and now weep for him; he sees disadvantage in alienating affection, so his wrath is directed against some one who formerly injured him. If the madman has a delusion concerning a conspiracy, his wife, or children, or friends, will be looked upon as the conspirators, and loathed in consequence. If the same man sees reason to feign such a delusion, other persons will usually be regarded in the light of his persecutors. But, not merely are the affections diverted from their objects in mania, but many things cut into a man's heart by habit seem to be erased. A man or woman of the most scrupulously, pure, and refined habits will, under the influence of this disease, become insensible to the common decencies of life. Words and actions utterly strange to the individual's whole life and character are the ordinary expressions of their insane vitality. All those actions which are most filthy and horrible have been, and will be again and again, made use of with the view of inducing a belief in the genuineness of assumed insanity; but the entire change of character under the influence of the disease from what it was in health, is not likely to be counterfeited. It is said that in mania the pulse is usually more frequent than in health; but although it is reported that, owing to this circumstance alone Dr. Rush was convinced of the unfeignedness of the insanity in a certain case, we would not be inclined to place

implicit reliance upon this symptom. The sphygmograph might write a man down an impostor. We have already in another connection alluded to the importance of physiognomical diagnosis, and we would only add that each disease has a distinct face-symptom, an invariable type of expression, running through the transient shades which are dependent upon an ever varying train of thought. The impostor can't really feign that. In mania, too, there is generally discoverable a slight febrile action, and a peculiar odour of the skin. The want of sleep is a symptom which is useful in the diagnosis of genuine mania. The impostor cannot stave off that enemy long. His exertions and feigned excitement, and the anxiety as to the success of his scheme, all weary him, and after a day or two at most, he will fall into a deep quiet sleep. The maniac on the other hand passes days, and sometimes weeks, without any apparent necessity for sleep; and when sleep does come it is restless and unhealthy sleep. The shutting of the doors of sense allows you to look into the heart, as it were. The restlessness of health with a purpose is very easily distinguished from the purposeless and animal-like motions of disease. The madman will show the same indifference with regard to food that he does with regard to sleep; the appetite of the sane man will often betray him. The insensibility of individuals labouring under mania to certain drugs, such as opium, is a test of some value. The dose which would send an impostor to sleep, however determined to resist its influence, would have little or no effect upon a person really suffering from this disease. The same remark applies to certain other medicines, as purgatives and emetics. It requires a larger dose of tartar emetic to produce its depressant effects upon a madman than it does upon a sane person. But not only is the body insensible to the ordinary effects of certain drugs, but some of the senses appear to be insensible in such a high degree to the ordinary effects of over-simulation. It is said that the madman can, eagle-like, look full in the sun's face, and thus insensibility, in certain cases, to cold, is a well-marked peculiarity.

The genesis of mania ought, in all doubtful cases, to be carefully inquired into. The preliminary symptoms of a genuine attack of mania are not likely to be simulated. Feigned mania begins suddenly! Where the insanity is real, many instances of strange and, at the time, unaccountable conduct will be remembered. The inquiry as to the occurrence of the disease should also extend to

circumstances which might have predisposed to its invasion. The habits of the individual, the health or disease of other members of the family, the inherited or acquired peculiarities of constitution, the previous tendencies of the individual and the moral and physical circumstances which surround him should be made the subject of diligent and intelligent inquiry. The irritability of temper of the real maniac differs from the grand showy outbursts of the impostor. This is, however, a symptom of less importance, and it is somewhat easy of imitation. The periodicity of the attacks which has been remarked in real mania will not occur in the feigned disease.

5. *Partial Intellectual Mania—Monomania—Melancholia.*—It is much more difficult to feign partial insanity than to feign what is called mania. In proportion to the difficulty is the rarity with which it is simulated. In partial intellectual mania, many of the symptoms are present which characterise the general disease, yet in most cases they are not so obtrusive, and a more careful examination has to be conducted, before the fact of the insanity discloses itself.

Epilepsy can be and is feigned. Beggars live by fits, and one detected in the act confessed that he had been taught the trick by his father, who studied the symptoms in a book.* Would there, we wonder, be primogeniture in the property in a fit? would it go to the heir or next of kin? A case of well-simulated epilepsy is mentioned in Legrand de Saulle.† To show that there is sometimes a difficulty in distinguishing between the simulated attack and the real disease, we may mention a case that came under the notice of Esquirol, who, during one of those conferences which took place during the clinique, boasted that no cunning could deceive his power of diagnosing a case of assumed epilepsy. One of the pupils shortly afterwards fell suddenly, was convulsed, and presented all the other symptoms of severe epilepsy. Esquirol, watching with deep anxiety, turned to those around, saying, "Ah, poor boy, he is an epileptic." The boy sprang to his feet, crying, "You see, my master, that we *can* simulate an attack of epilepsy."‡ That simulator was Calmiel, the greatest authority upon general paralysis, and still, although old, the physician of Charenton. Sailors who prefer deck-work to going aloft often feign epilepsy. An examination of

* 'Journal of Mental Science,' vol. ii, p. 357.

† Page 442.

‡ Legrand de Saulle, p. 358.

the hands during the seizure will generally show whether it is real or not. The thumb of the real epileptic is invariably held down into the palm by the other fingers. A practised ear ought to be able to distinguish the cry which upon all occasions accompanies the seizure. Occasionally pretended epilepsy has passed into or been merged in the real.* Many acts which have been planned by will pass out of the domain of will. You can make a habit, but it masters you when it is made. It has been asserted with some reason that the marvellous power which some insane persons have of simulating diseases may be due not only to the perversion of muscular volition obtained by habitual exercise, but also to an exaltation of the powers of co-ordination due to the diseased condition.

The same prejudices, however, have possession of the mind, the same irritability of temper, the same unfounded likings and dislikings, affections and aversions, the same sleepless restlessness and insensibility to impressions, and the operation of drugs, are to be found in this form of disease. The pretended monomaniac will, however, parade those symptoms, while in the individual really suffering from partial mania there will be a tendency and effort to conceal them from observation. He is generally quiet and reserved, but will become querulous and sometimes violent in an argument. "A real monomaniac," says Marc, "is strongly prejudiced in favour of his opinions, the slightest contradiction excites his temper; while the simulator readily overlooks this essential point in his part if the contradiction is skilfully managed. The taciturnity peculiar to the real subjects of monomania frequently leaves simulators at fault, since the complaints of the latter were sure of being seen and heard, and their repugnance at dwelling in solitude are not met with, or at least not in the same degree in the others."

The forms of intellectual insanity in which it is most difficult to distinguish the real from the feigned are those which are manifested by profound melancholy, or the possession by the mind of one fixed delusion. Here it is evident that the marks of effort, of planned disorder, of occasional signs of healthy mental action and ordinary human interests, will not suffice as marks by which to know the true from the false. In many of the forms of partial intellectual mania,

* Dr. Browne on the Mental Condition of Epileptics in Crichton Institution. Reports, 1853, p. 12.

as we have before shown, irresponsibility should not be admitted; and in cases in which the delusion was connected with the crime of which the individual is accused, or where the melancholy is so profound as to deprive the accused of any power of choice; in such cases a careful observation by medical men, extending over a considerable portion of time with a view of marking the progress which the disease, if unfeigned, will make in one direction or another, would not fail to discover an artifice, if it exists, or to establish the fact of real disease. In all cases the family and individual history, if it can be ascertained, will afford some presumption which will be of use in the investigation.

In moral mania, which, according to Hoffbauer, "may exist uncomplicated with mental delusion, and is, in fact, only a kind of mental exaltation (tollheit), a state in which the reason has lost its empire over the passions and actions by which they are manifested to such a degree that the individual can neither express the former nor abstain from the latter." In this kind of insanity, where the chief ground for believing in the existence of mental unsoundness is the character of the acts committed, and very often nothing more than the character of the single act of which the criminal is accused, the difficulty of distinguishing what is real from what is feigned is exceedingly great. Up to the present time courts of law have been very unwilling to admit moral mania, as proved only by the quality of the act of which the individual is accused, as a good plea in criminal cases; and it has done so upon what seems good grounds. That a criminal act may be the first symptom of insanity is true, but that the brutal quality of the act should be admitted as sufficient proof that it resulted from an insane impulse is absurd. The science of evidence may be superseded in time to come, but while it is still looked upon as a science, and still regarded as the only guide in the decision of all questions of criminality and responsibility, not to say, what would be true, all questions in life, to allow the act itself, with which an individual is charged, to be an all-sufficient proof of the insanity of the accused is impossible. It may be true that the man is mad, as in many other cases it is true fatal blows have been struck in self-defence, but, as in the latter case, if the self-defence could not be proved by facts other than the deed, so in the former case the insanity cannot for a moment be permitted to be proved by the atrocity of the crime alone. The result of the

admission of such a doctrine would be to add to the atrocity of every crime; and an individual who wished to commit murder on a neighbour would, to secure his immunity from punishment, cut a few more throats. It is, however, in many cases, unlikely from other circumstances, that a sane man could commit a crime without any motive; it is certain that no sane man does anything without a motive, and, although the motive may not be good, it is invariably rational. Where, therefore, these circumstances can be and are brought out, as in a case where an individual in a good position in society, in circumstances which would lead most men to live easily contented, suddenly kills another, never having seen him nor communicated with him before, by whose death he is in no way advantaged, and from the consequences of whose death he sees no probability of escape; in such a case, even although there may be no delusion, the presumption of insanity is very strong, and upon suitable medical testimony the individual ought to be held irresponsible. Such cases, however, will not fall under the notice of him who is studying feigned insanity, and if capability of judging of motive is looked at as the only guide in deciding all questions of responsibility, although an occasional error may be committed, as in all other inquiries, few persons will escape from punishment by simulating moral mania, unless they are very vigorously seconded in their efforts by injudicious medical gentlemen.

CHAPTER XIX.

ON CONCEALED INSANITY.

Insane persons are very often influenced by motives just as the sane are. In many instances the motives which influence them are utterly mistaken, and sometimes have no objective existence; but at other times they are influenced in precisely the same way that persons in possession of their reason are. If you laugh at a lunatic on account of his delusion, you may not succeed in eradicating the erroneous belief, but you may succeed in making him conceal its existence. On a similar principle to that expressed in the proverb which says that "a sin hidden is half forgiven," it might be thought that "a delusion concealed was half cured." But although in some cases the concealment would indicate a progress towards recovery, in others the secrecy is a part of the disease. But not only will the fear of ridicule induce insane people to feign sanity, but other fears, such as that of being put in an asylum, or being deprived of the management of their affairs, will influence these persons to conceal those symptoms which they have learned that others account indications of insanity. Of course the maniac will rave, the idiot will drivel, and the dement will stand and stare. In such cases there can be no concealment. It is only in those cases where the disease is less virulent that any efforts at concealment will be made, and in such cases efforts may be made with so much ingenuity and ability as to deceive many persons who are intimately acquainted with the characteristics of mental disease. Even experts have been hoodwinked by clever lunatics.

That this would not be difficult to do in many cases is evident. Where the insanity consists in some delusion which is not likely to influence the ordinary conduct of the individual, it is not difficult for

the insane person to conceal the erroneous belief, or to deny his belief in it when he is charged with it. One case has been communicated to us which illustrates this difficulty. A man was placed in a lunatic asylum. He claimed an interview with the superintendent, and when it was granted, he said with perfect calmness, "Doctor, I am not mad; I believe in omens. I had a dream in which I thought I saw some one who told me to try and convert a neighbour. I thought that this dream ought to influence my conduct, and I endeavoured by every fair means to convince my neighbour of the truths of religion. I confess I believe in omens, but am I to be shut up in a lunatic asylum for that? Dr. Johnson and Sir Walter Scott did the same."

For three months this man remained in the institution, and during all that time he conducted himself like a rational being, and showed no other symptom of insanity than what appears in the above sentences. At the end of that time he was discharged, for although the medical superintendent was convinced in his own mind of the mental unsoundness, he could have given no sufficient reason for his belief; and the belief in omens and the prophetic character of dreams is no more a sign of insanity than the belief in spiritualism is. The man was discharged, and in six months he returned to the asylum in a state of acute mania.

Besides, it is very often difficult to discover whether a belief is a delusion or not. A pauper lunatic was a short time ago admitted into an asylum, and during the visit of the medical superintendent this patient said he had been in Australia at the gold diggings. The medical man pointed this out to his assistant as a delusion, because he diagnosed the existence of incipient general paralysis. His assistant, however, who had seen the relieving officer, said it was a fact that the man had been at the diggings. The superintendent was, however, dissatisfied, from the way the man spoke of the "gold," the "fine gold," and the quantity of gold; he still regarded it as a delusion; and when, shortly afterwards, the patient was visited by his wife, it was ascertained that he never had been out of England. This shows that there is much difficulty in distinguishing between true beliefs and delusions. So minute was this patient's account of his Australian experiences, that it had deceived the medical man who had signed the certificate, the relieving officer, and the medical assistant at the asylum in which he was confined.

In many cases which have come into courts of law the utmost difficulty has been felt in determining whether lunacy does really exist or not. A remarkable case of this kind was referred to by Erskine in the Hadfield case. A person who had been confined in a lunatic asylum prosecuted his brother and the keeper of the asylum for false imprisonment and duress. Erskine was informed that the man was undoubtedly insane, but he was not told the particular form which the malady assumed. The prosecutor, himself a witness in support of the indictment, was put into the witness box and examined, and when Erskine came to cross-examine him, he found his evidence clear, distinct, collected, and rational. He tried to discover some alienation of mind, but during a cross-examination, conducted with all the skill and sagacity of which he was master, for nearly an hour he was completely foiled, the answers were perfectly rational—there was not the slightest sign of mental alienation. A gentleman, however, who had been accidentally detained, came into court, and whispered in Erskine's ear that the witness thought he was the Saviour of mankind. On receiving the hint Erskine made a low bow to the witness, addressed him in terms of great reverence, and respectfully begged to apologise for the unceremonious manner in which he had treated a person of his sacred character, and called him by the name of Christ. The man immediately said, "Thou hast spoken truly, I am the Christ." And Pinel relates a similar case.

Thus, Lord Eldon related a case in which, after repeated conferences and much conversation with a lunatic, he was convinced of the soundness of his understanding, and prevailed on Lord Thurlow to supersede the commission. The lunatic calling immediately afterwards on his counsel to thank him for his exertions, convinced him in five minutes that the worst thing he could have done for his client was to get rid of the commission.* And Mr. Haslam has given the case of an Essex farmer who so well counterfeited sanity as to procure his liberation from the asylum in which he was confined, but who was almost immediately sent back; and he gives the following account of the conduct of this individual. "At the examination he managed himself with admirable address. He spoke of the treatment he had received from the persons under whose care

* Ex parte Holyland, 11 Ves. Rep. 11.

he was at that time placed as most kind and fatherly; he also expressed himself as particularly fortunate in being under my care, and bestowed many handsome compliments upon my skill in treating this disorder, and expatiated on my sagacity in perceiving the slightest tinges of insanity. When I wished him to explain certain parts of his conduct, and particularly some extravagant opinions respecting certain persons and circumstances, he disclaimed any knowledge of such circumstances, and felt himself hurt that my mind should have been poisoned so much to his prejudice. He displayed equal subtlety on three other occasions when I visited him; although by protracting the conversation he let fall sufficient to satisfy my mind that he was a madman. In a short time he was removed to the hospital, where he expressed great satisfaction in being under my inspection. The private madhouse, which he had formerly so much commended, now became the subject of severe animadversion; he said that he had there been treated with extreme cruelty, that he had been nearly starved and eaten up by vermin of various descriptions. On inquiring of some convalescent patients I found (as I had suspected) that I was as much the subject of abuse when absent, as any of his supposed enemies, although to my face he was courteous and respectful. More than a month had elapsed since his admission into the hospital before he pressed me for my opinion, probably confiding in his address, and hoping to deceive me. At length he appealed to my decision, and urged the correctness of his conduct during confinement as an argument for his liberation. But when I informed him of circumstances he supposed me unacquainted with, and assured him that he was a proper subject for the asylum which he then inhabited, he suddenly poured forth a torrent of abuse, talked in the most incoherent manner, insisted on the truth of what he formerly denied, breathed vengeance against his family and friends, and became so outrageous that it became necessary to order him to be strictly confined. He continued in a state of unceasing fury for more than fifteen months."*

With the view of arriving at a correct conclusion with regard to the existence of insanity or not the French have recourse to what they call the interrogatory, the continued observation and the inquest. Method in such matters is, of course, of the greatest use, and it has

* Haslam, 'On Madness,' 53.

been said by some writers that the efficacy of the French system is proved by the admirable way in which it works.

The interrogatory embraces all that will be considered in the chapter which will be devoted to the examination of lunatics.* And it is instituted with a view to obtaining all the information which can be had from the individual himself, or from any one who has had opportunities of becoming acquainted with his past history, and of observing his conduct. When the examination of the lunatic or interrogatory fails to establish the existence of insanity, and not unfrequently this will be the case where moral mania or imbecility alone are present, the French have recourse to the second method—

Continued observation.—The importance of a careful observation of a person supposed to be insane extending over a long course of time can scarcely be exaggerated. At any visit of a medical man the patient may be on his guard and may manage to conceal his insanity, but very few insane persons can continue to act the part of sanity for a long time. They will inevitably be off their guard now and then, and the true mental symptoms will manifest themselves. Observation when the patient is unconscious that he is watched will often throw light upon actual mental disease which is most carefully hidden when they are in the presence of others. It seems as in the case of criminals who cannot, even when assisted by the discipline of a prison, remain "good" for long, but must have their "outbreaks," so it is with the lunatic who would conceal his delusion. The probability is that he raves when he imagines himself unobserved. Opportunities of observation should therefore be secured and care taken to note all his habitual acts which may be within the range of the influence of delusion, as it is in those acts which are automatic that the morbidity is most likely to be observed. We have in another place pointed out the importance of examining the writings of those who are suspected of lunacy.

The inquest, according to the French method, implies a consideration of the past history of the case, and bringing the facts derived from others as to the possible causes of the disease to bear upon the case. In this place we need only say that all these means which are formulated by Georget and other French writers in the way we have indicated have been all along appreciated by English and American writers, and

* See post p. 320.

that, perhaps, a more philosophical classification of the facts to be observed will suggest itself to many readers. Little difficulty can arise if an examination such as we have recommended in another place is conducted with the care and intelligence which is necessary to the success of all scientific research. But after the cases which have been alluded to in this chapter, it is evident that in many instances one or two interviews with a lunatic will not be sufficient, and that in some a long course of observation will be requisite to establish the fact of the existence of mental disease.

CHAPTER XX.

ON LUCID INTERVALS.

There is no law more marked, as we have already said, in relation to vital phenomena than that of periodicity. Everything in nature is periodic. The sun, which is, as it were, the bulb root of life, makes the seasons, makes night and day, makes noon and midnight, and so it is that the whole of the vital processes in man had to become periodic. Thus habit, which tends to constant reproduction of automatic acts, is influenced by this law and produces acts in relation to certain periods. Thus recreations become periodic; sleep becomes periodic; the appetites become periodic; and it would be anomalous if, when all the processes of health are modified by this principle, the morbid conditions of body should not also be under its control. Nervous force becomes exhausted, and a period of rest must follow a period of activity. Nervous force must be accumulated. Now habit, which is like the fly-wheel of a steam engine and governs and regulates the movements, makes this periodical necessity of rest a matter in relation to time rather than in relation to labour already done. In this way periodical accumulation of nervous force, periodical feelings of kindness become a part of man's constitution. So it is with diseases, especially, as could be argued from the above explanation, with nervous diseases. Thus it is we find neuralgia coming on at a certain hour, and from these facts it is not difficult to infer that most, if not all, diseases are periodic. Now, the question as to periodicity when it comes to be asked with regard to insanity must have the answer which has been indicated by the above deductions. The fact that the name by which it is still known—lunacy—ascribed the origin of the disease to the influence of that body evidently points to remissions and exacerbations of the disease corresponding to the monthly changes. That this periodicity is not so marked now is true, but that it was observed in old times seems certain. That the tides

should be in the leading strings of lunar influences, that all the waters of the world should be moved by the gravitation of the moon, and that man should be unaffected by this influence, it is somewhat difficult to conceive. How far the menstrual discharge is governed by this law it is impossible to conjecture, and all our efforts to ascertain the exact effects of this cause fall very short of the mark.

The philosophy of medicine is not sufficient to dream of all things in heaven and earth. Now, that there are marked remissions in insanity is a well-known fact. We know that at certain hours of the day the wards of an asylum are more noisy, just as at certain hours of a day the pulse is higher. But besides these simple remissions in the violence of the manifestations of disease, there are some remissions which have a striking resemblance to mental health. And these have been called lucid intervals. That there may be long periods of health between attacks of mania has scarcely been doubted, but many medical men have hesitated to believe that, in those remissions of a shorter duration which do take place in the course of this disease, there is any return to a normal mental condition. Thus, Dr. Combe observes, "However calm and rational the patient may appear to be during the lucid intervals, as they are called, and while enjoying the quietude of domestic society, or the limited range of a well-regulated asylum, it must never be supposed that he is in as perfect possession of his senses as if he had never been ill. In ordinary circumstances, and under ordinary excitement, his perceptions may be accurate, and his judgment perfectly sound, but a degree of irritability of brain remains behind, which renders him unable to withstand any unusual emotion, any sudden provocation, or any unexpected emergency. Were not this the case, it is manifest that he would not be more liable to a fresh paroxysm than if he had never been attacked. And the opposite is notoriously the fact; for relapses are always to be dreaded, not only after a lucid interval, but even after perfect recovery; and it is but just, as well as proper, to keep this in mind, as it has too often happened that the lunatic has been visited with the heaviest responsibility for acts committed during such an interval, which previous to the first attack of the disease he would have shrunk from with horror."* Considerable misunderstanding has existed upon this point up to the present time.

* 'Observations on Mental Derangement,' p. 241.

With regard to lucid intervals, many persons have been of opinion that they were only to be classed with well-marked remissions of the disease, while others have held that they were only to be distinguished from intermissions by the length of their duration. Perhaps the truth is that intermissions are not to be distinguished in any way from remissions; and that the distinction between functional or dynamic and organic disease, is more apparent than real. Those persons who have held that a lucid interval was only a remission of the violence of the symptoms of the disease are at variance with some of the best legal opinions upon this point. Dr. Haslam has been mentioned as one of those who hold the impossibility of lucid intervals, as it has been defined in the courts of law upon the authority of some of the ablest members of the medical profession, but we find him saying in one place, "I should define a lucid interval to be a complete recovery of the patient's intellects, ascertained by repeated examinations of his conversation, and by constant observation of his conduct for a time sufficient to enable the superintendent to form a correct judgment. Unthinking people are frequently led to conclude that if, during a short conversation, a person under confinement shall betray nothing absurd or incorrect, he is well, and often remonstrate on the injustice of secluding him from the world. Insane people will often, for a short time, conduct themselves both in conversation and behaviour with such propriety that they appear to have the just exercise and direction of their faculties; but let the examiner protract the discourse until the favorite subject shall have got afloat in the madman's brain, and he will be convinced of the hastiness of his decision."* This is not quite consistent with what Dr. Haslam says in another work, where he remarks, "As a constant observer of this disease for more than twenty-five years, I cannot affirm that lunatics, with whom I have had daily intercourse, have manifested alternations of insanity and reason. They may at intervals become more tranquil, and less disposed to obtrude their distempered fancies into notice."† In one of these extracts he seems to be of opinion that a lucid interval is an intermission of the disease, and in the other he identifies a lucid interval with a remission.

In this place, however, we have more to do with legal than with

* 'On Madness,' 46 and 47.

† 'Medical Jurisprudence of Insanity, p. 224.

medical definitions. And there have been inconsistencies in the decisions upon this point. In the Attorney General *v.* Parnther, Lord Thurlow said,* "By a perfect lucid interval I do not mean a cooler moment, an abatement of pain or violence, or of a higher state of torture —a mind relieved from excessive pressure, but an interval in which the mind having thrown off the disease, had recovered its general habit." And Sir William Wynne, in Cartwright *v.* Cartwright, said,† "I think that the strongest and best proof that can arise as to a lucid interval is, that which arises from the act itself that I look upon as the thing to be first examined, and if it can be proved and established that it is a rational act rationally done, the whole case is proved."

Little or no exception has, so far as we are aware, been taken to Lord Thurlow's definition, but much has been said as to the want of precision of the text laid down in the latter case by the court. It is evident that many insane persons can do rational acts with perfect rationality, and that when no one could pretend that there was a lucid interval between the paroxysms of the disease. That the rationality of the act, and the rational manner in which it was performed, might be a test as to the possession of sufficient mind to enjoy the privilege of disposing of property by will, is certainly true. But the use of the term lucid interval made use of by the learned judge in this case is not warranted either by medical opinions or by legal opinions, either before or after his time.

In a case in which a medical man who had seen the testator frequently, and deposed that on no occasion did he manifest any symptoms of insanity, but "conducted himself and talked and discoursed in a rational manner, and was in full possession of his mental faculties," Sir John Nicholl decided that the proof of a lucid interval was not sufficient, and that, although in the testamentary acts there was nothing to show that the testator was not of sound mind; and in giving judgment Sir John Nicholl said, "It is clear that persons essentially insane may be calm, may do acts, hold conversations, and even pass in general society as perfectly sane. It often requires close examination by persons skilled in the disorder to discover and ascertain whether or not the mental derangement is removed and the mind again perfectly sound. When there is calmness, when there is rationality on ordinary subjects, those who see the party usually conclude that recovery is perfect. Where there is not actual

* 3 Bro. C. C. 441. † 1 Phillim. 90.

recovery, and a return to the management of himself and his concerns by the unfortunate individual, the proof of a lucid interval is extremely difficult."* In another case the same learned judge said, "I am not able exactly to understand what is meant by a lucid interval; if it does not take place when no symptom of delusion can be called forth at the time, how but by the manifestation of the delusion is the insanity to be proved to exist at any one time? The disorder may not be permanently eradicated; it may only intermit. It may be liable to return, but if the mind is apparently rational on all subjects, and no symptom of delusion can be called forth on any subject, the disorder is for that time absent. There is then a lucid interval, if there be such a thing as a lucid interval, because it is difficult to ascertain the total absence of all delusions."† Now, all this difference of opinion indicates a difficulty connected with the subject; and experience proves that there is much difficulty in ascertaining when a lucid interval is really present.‡

The remarks made in another place will show in how many cases individuals who are quite insane have a power of concealing their insanity, and if the difficulty is great in such cases, it is, perhaps, greater in determining the condition of mind which has been defined above. When, however, its existence is admitted or satisfactorily proved, there is no question as to the legal consequences. The law which looks upon a lucid interval as a shorter period of intermission between two attacks of insanity, and which regards intermission as a return to sanity, just as the intermission in an ague fit is a return to health, cannot regard the insane person with a lucid interval in any other light than as a person of sound mind. As this is the case, the greatest caution is necessary in determining the actual existence of this state, and careful examination must be made, and very little reliance is to be placed upon the opinion of friends or relatives in such a case. Even in the commencement of insanity little is to be satisfactorily gathered from the stories of relatives who, in many instances, have most limited powers of observation, and are

* Groom and Thomas *v.* Thomas and Thomas, 2 Hagg Ecc. Rep. 433. See also White v. Driver, 1 Phillim. 84.

† 3 Hagg Ecc. Rep. 599.

‡ See Jarman on Wills, vol. i, p. 32; Waring *v.* Waring, 6 Moo. P. C. C. 341; 12 Jur. 947; Creagh *v.* Blood, 2 J. & Lat., 509; Dyce Sombre *v.* Troup, 1 Deane 22.

very long before they can associate the idea of somewhat odd conduct with the idea of insanity in a person they have all along regarded as sane. That extra caution is required in the case of a lucid interval when the character of an act has to be determined, will be evident when we remember that as it is *ex hypothesi*, an intermission of short duration, it is most difficult to predicate when it will come to an end and what acts are influenced by the returning morbid conditions. It is also well to bear in mind that although an insane person during a lucid interval is to be regarded for all the purposes of law as sane, he must, for many obvious reasons, be regarded as a person very liable to go insane, and in that respect as mentally inferior to what he was before he suffered from the disease at all. The acts of such a person should be carefully looked at, just as the act of one who is proved to have a strong hereditary taint of insanity would excite a suspicion of possible insanity if they resembled the acts ordinarily done by persons of unsound mind. Thus, we find that in criminal courts there is a reluctance to convict an individual who has committed a criminal act during a lucid interval, and this reluctance is worthy of the better name prudence. For, although an individual may, during such a remission of mental disease, commit an act for which he is really in strictness responsible, and although he may be at his trial in such a state of mind as to be capable of instructing solicitors and pleading, still, with the certainty of recurring insanity before them, the jury are right in not subjecting an individual to prison discipline, which might aggravate or confirm his malady, while the discipline and treatment of an asylum might do something to make him a good citizen and a sane man. One other circumstance it is well to bear in mind in connection with this subject, and that is, the gradual enfeeblement of the mental powers as the disease progresses, so that each lucid interval which may make a little light in the darkness finds the individual weaker mentally than he was before. And as the changes in structure progress, the lucid intervals will become shorter and less marked, until a time comes when there are none of those second summers of reason. All these things are to be kept in mind by those who would recognise a lucid interval when it really exists, and who may have some influence, by means of their evidence, upon the legal relations of persons, whose desert lives are broken here and there by those little fertile spots, to the state and laws.

CHAPTER XXI.

THE ADMISSIBILITY OF THE EVIDENCE OF THE INSANE.

It is of some importance at the present time to endeavour to discover in what cases the evidence of persons of unsound mind should be relied upon. There are panics in the world which interests itself about social economy, just as there are on the Stock Exchange. We have had one recently. Fiction has gone so far in the direction of sensation, that actual current history has had to follow. There is a close connection between the novels and the histories of a period. They are both, in their tone of method, outcomes of the same spirit. The newspapers, then, which bear the same relation to history that a photograph does to a painting, found a sensational subject in what is called "Rib-breaking in Asylums." Many journals endeavoured to increase their circulation by exposing the abuses of the asylum system, and commissioners in lunacy and medical superintendents of lunatic asylums were subject to the cheap vituperation of an incensed press. Abuses pay. If it were not for disease doctors could not live. If it were not for those diseases of society, abuses and anomalies, newspapers would be almost useless. But as *some* doctors shake their heads when there is nothing the matter with the patient, and make visits when there is no necessity for attendance, so newspapers sometimes let loose their "rosin'd lightnings" when there is no necessity for it. However, the panic is almost passed. The subject is no longer found remunerative, and the time seems to have come for the consideration of one or two of the questions which were raised, and to which no satisfactory answer has as yet been given. One of the cases which gave rise to the consternation alluded to was that which came before Mr. Justice Willes at the Lancaster Assizes about a year ago.

William Wood and John Hodson, two attendants in the Lancaster Asylum, were there indicted for assaulting a patient, and upon the evidence of another patient, named James Dutton, were found guilty and sentenced to seven years' penal servitude. It is not difficult to understand that such a result raised the whole question as to the admissibility of the evidence of persons of unsound mind, and that the declaration of Lord Campbell, C. J.,* that there would be total impunity for offences committed in asylums for the insane if the only persons who could give information (meaning patients) were not to be heard, was remembered. In this place that is the only question which we would wish to consider, although the whole subject of attendants in asylums and on the insane presents itself, together with the recommendation made by the Commissioners in Lunacy in the year 1851, to the Committees of Visitors of Lunatic Asylums. That recommendation was that for satisfactory performance of the duties of attendants it was essential that there should be not simply the ordinary qualifications of sobriety, honesty, activity, and general intelligence, but that equally indispensable were a fair education in reading and writing, good temper, patience, firmness, habits of self-control, and, in regard to the more helpless patients, a certain aptitude for training and directing them in the way of employment or amusement,† and all this was to be had for wages varying from £12 to £18 for females, and from £18 to £25 for males. Mr. Hood's idea of politics was a despotism, and an angel from heaven to rule. Every virtue for £15 per annum! With regard to the competence of persons of unsound mind to appear as witnesses in courts of law, Dr. Ray has pointed out that, in his opinion, it would be well to dissociate the idea of incompetence to testify from that of insanity. The law has not, however, adapted itself to this opinion. Those four kinds of men who may, according to Lord Coke, be looked upon as *non compos mentis*,‡ are incompetent witnesses until the cause of incompetency is removed.§ There is, however, some inconsistence in this part of the law. The first of Lord Coke's four classes comprises idiots who from their nativity

* Denison's Crown Cases, p. 254.

† 'Fifth Report of the Commissioners in Lunacy to the Lord Chancellor.'

‡ Coke's Littleton, 247 a.

§ Best's 'Principles of the Law of Evidence,' 5th ed., p. 208. See also 3 Coke's Littleton, 489.

by a perpetual infirmity are *non compos*. Now, the law regards a person who has been deaf and dumb from birth as an idiot;* yet, if he can be communicated with by signs or tokens,† or by writing,‡ and has sufficient intelligence to understand the nature of an oath, he may be examined as a witness. This inconsistency arose from the mistake of regarding a person who is deaf and dumb as an idiot, and also from the stupid error of regarding all persons of unsound mind as incapable of giving evidence. The truth that the evidence of an insane person may be trustworthy, was understood before Lord Campbell laid down the principle, that provided only that the lunatic witness understood what he was saying, and understood also the obligation of an oath, his evidence should be received, and the amount of reliability of the witness left to the jury. And the daily experience of those who are in constant attendance on the insane goes far to show that, in very many cases, persons of unsound mind may bear testimony to facts which is as reliable as any which might be given by those who are not considered insane.

Hoffbauer has advanced the opinion that before a witness can be deemed competent it is necessary that his senses should be sufficiently sound to take cognizance of the facts to which he testifies, that his impressions should have been really what he believes they were, that his testimony should coincide with his belief, and that he should be able to convey his ideas to others sufficiently clearly to be understood. The first and fourth of these principles are truisms, and the second and third are not quite true. That a blind man is not to be asked whether a person had on a green or a yellow dress seems to be dictated by the most common of common sense, and that it does not matter whether that blindness has been produced by glaucoma or general paralysis is not a great advance in the way of ratiocination upon the first proposition. As for the fourth principle, that a man should have sufficient capacity to convey his ideas clearly to others before he is believed, does not require to be laid down definitely in the case of lunatics as it would naturally suggest itself as being true of any kind of testimony whatever. As to the second and third of Hoffbauer's rules little need be said. That the lunatic's testimony should bear the same relation to his beliefs that

* 1 Hale P. C. 34.

† 1 Phil. Ev. 7, 10th ed., Morrison v. Laman, 3 C. and P. 127.

‡ R. v. Rushton, 1 Leach C. L. 408, R. v. Steelib 452.

the evidence of a sane man bear to his impressions is all that can be expected. The coincidence of impression and testimony is very rarely found even in the most sane and the most truthful witness. That the impressions should have been really what he believes they were is not absolutely necessary. But if the relation between the impression and the belief are such as they would have been had a sane man been placed in similar circumstances, the evidence of the lunatic is worthy of as much credence as would have been due to the testimony of the sane witness.

With a view to ascertaining the real value of the evidence of insane persons, it may be well to consider the question first in relation to amentia, second in relation to dementia, and third in relation to mania.

It is scarcely necessary to say that a lunatic during a lucid interval is* a perfectly competent witness with regard to any circumstances which may have occurred during the remission of the disease; and that in most cases he would be a perfectly competent witness of any circumstances which occurred in his experience during the continuance of a former lucid interval. Indeed, it seems to us that the law goes too far in insisting upon the possession of intellect—*i. e.* of a perfectly sound mind—at the time of the event to which the individual testifies, as well as at the time of the examination as a constituent of competency. Sane men are, as it were, mad in dreams. Sleep is full of delusions; but this fact does not prevent us, when the morning comes, dissociating our real impressions—as of cold, or headache—from the false impressions of infinite distance with a never ending leap—of dead friends alive, and all the rest of sleep's drama.† In many cases the individual who has been under the influence of that waking nightmare—a delusion—and has recovered, is perfectly capable of bearing testimony to any circumstances which came under his notice during the exacerbation of the disease. But care must be taken to distinguish those kinds of insanity which have the effect of deteriorating the intellect. In cases of progressive decay, marked by exacerbation and remission of some more acute form of mental derangement, the evidence of persons during lucid intervals in the later stages of the disease is not to be relied upon,

* Com. Dig. Testmonigne. A. I.

† The same is true of the evidence of a person who has become sober after partial intoxication. See Hartford v. Palmer, 16 Totnes, 153.

on account of general incapacity to observe or to externalise any impressions which may have been made by events upon the mind. So that it has been laid down that, in order to render the evidence given by an individual during a lucid interval valid, it is in some cases necessary that no serious fit of insanity has intervened between the event and the testimony, at least no such fit as would cloud the recollection of the witness, "and cause him to mistake the illusions of imagination for events which actually took place."*

1. *With regard to Amentia.*—It is quite evident that idiocy must disqualify an individual from bearing testimony to any facts. Indeed, the word witness does not merely mean the corporal presence of an individual at the scene of an event, else a stone wall or a tree would be a witness; but it includes the idea of the possession of sufficient intelligence or mental sentiency to observe the circumstances of the event, and some capacity to remember and relate these circumstances in their actual order, in such a way as to give a third party some knowledge concerning the event. Now, some imbeciles are quite able to do this. Indeed, many imbeciles have much acuteness, and many stories are told with a view to show that imbeciles have occasionally a somewhat thorough knowledge of the characters of individuals with whom they have come in contact, which would seem to prove that occasionally those persons who are recognised as mentally defective, have sufficient power to essay the very highest kind of observation. In each case the question of the reliability of an imbecile's testimony will be a matter for the jury. An individual who is not accused of insanity, but who is known to be untruthful, may be only partially trusted. If a jury knows that it is his interest to speak truth they will place more reliance upon what he says; and so in the case of an imbecile, if the circumstances are such as would in all probability have made an impression upon a weak mind; if they were such as owing to their relations were likely to be remembered, greater reliance may be placed upon his testimony than if such conditions were not present. Many cases, however, may arise in which an imbecile would be incapable of giving testimony of any value. Many events have too many convolutions, are too complicated in their details, to be appreciated in their entirety by persons of weak mind. And it is to be borne in mind that the statement of all facts are opinions, and that the appreciation of a fact is necessary

* Alison's 'Prac. C. P. of Scotland,' 436.

to the excellence of such a statement. The transitory character of all impression on the memory of imbeciles must be borne in mind. Memory is lasting in proportion to the intensity of attention; and it is in the impossibility of the attentive attitude, in the failure to concentrate the rays of consciousness that the lower forms of intelligence are most clearly distinguished from the highest order of intellects. In consequence of this fact it is well to be careful in accepting the evidence of persons of weak mind concerning events which are remote in point of time, unless frequent repetition has stereotyped the impression in memory. Still, in many cases imbeciles are competent to give very useful evidence, and to further the ends of justice, which, but for their evidence, could not be efficiently promoted. The question of the credibility of the evidence of a person of weak mind, which is left to the jury, is very much the same as that which falls to be considered by them in the case of witnesses who have scarcely reached the years of discretion. In the case of R. *v.* Perkins,* Alderson, B, said—"It is certainly not the law that a child under seven cannot be examined as a witness. If he shows sufficient capacity on examination a judge would allow him to be sworn." In many respects idiots are to be regarded as children, and their evidence, where it is unsatisfactory, will have failed in its value in virtue of the same, or similar qualities, which takes from the excellence of the testimony of very young children.

The circumstances of the examination, as bearing upon the evidence of imbeciles, should always be taken into consideration. The unusual circumstances which accompany legal proceedings in a Court of Justice—the presence of listeners, those forcep-questions of Counsel which bring information to the birth, the feeling of impending evil, or, at least, discomfiture, which is present in most minds when in a witness box, have the effect of altering the relation of the individual to his actual remembrances; and this may, or may not, have more effect upon the person whose intellect is impaired than upon him who has, to use the ordinary phrase, his wits about him. Although some writers seem to imagine that these formalities would tend to have a greater influence upon the imbecile than upon the sane man, it is difficult to see why it should be so. Want of sentiency is callousness. Stones are thoroughly apathetic. And so it is that it is only to acutely sensitive minds that the novel is a

* 2 Moo. C. C. 139.

matter for wonder. Those of very inferior mental capacity can go through the world without ever having a tremor. All low forms of life have more or less tendency to inanimacy.

Only one other point with regard to the evidence of those persons who suffer from defective development of the faculties remains to be mentioned. In almost all forms of insanity, as well as in idiocy, there is a serious impairment of those powers by which men distinguish right from wrong. Many insane persons have an actual pleasure in lying. Many sane men delight in playing practical jokes. All practical jokers are utterly stupid, and very often they are more, they are blameworthy. To insane persons lying bears the semblance of a practical joke. The ingenuity required for the successful uttering of a lie is a pleasurable exercise of the faculties; and they often lack the power to appreciate the many motives which preponderate upon the other side and would compel any reasonable man to speak the truth. There is an epigram which embodies this principle—

I——B——

"Truth is indigenous in some,
In others it will scarce take root;
But he would only tell a lie
When he imagined it would suit."

The man described in these lines is the sane liar. He is a man who has made a mistake. He has calculated that a lie would suit his purpose better than the truth. He had not found that absolute honesty is politic; but that man would not lie if he thought it was against his interest. The motive of actual pleasure in the purposeless perpetration of a deception is not present. But many insane persons do lose this guiding principle. They have actual pleasure in the untruth irrespective of any good to be obtained by its means. Just as the miser has lost sight of the real purpose and pleasure of money, and delights only in getting, so the insane, or many of them, delight in lying. Under such circumstances it can be understood that there is extreme difficulty in trusting in many cases to the evidence of persons of unsound mind; a difficulty which, it seems to us, has not been thoroughly appreciated by many writers on the Medical Jurisprudence of insanity.

It is probable, as has been stated above, that this habit of untruthfulness may have been induced, in the first instance, by a want of capacity in the individual to understand the real evil resulting

from a certain course of conduct. Indeed, this is a very common form of error, even amongst those who are not insane; and it is for the better guidance of such persons that the practice of adding the obligation of an oath, in a court of justice, to the other obligations which exist in the ordinary motives of mankind has been introduced. And, as habits are much more readily formed in a weak mind than in a strong one, so persons whose mental capacity is defective very rapidly become the puppets of this string of customs, and lies become the only habitual exercise of their minds. These facts ought to be borne in mind. The habitual untruthfulness of most persons of unsound mind is known to all those who have had any experience in the treatment or care of the insane.

2. *In relation to Dementia.*—Very old men do not make such good witnesses as those who are in the prime of life; and when the ordinary decay of old age has passed into that other and direr decay, which is called dementia, their capacity is likely to be still more limited. One circumstance with regard to the evidence of dements is worthy of especial notice. The memory loses its latest impressions the first, and while all trace of recent events has disappeared, there is a distinct remembrance of many remote incidents. Thus, while the imbecile's memory may be trusted with regard to the events of yesterday, more reliance may be placed upon the dement's memories of twenty years ago than of what took place only an hour gone by In all cases where the competency of the evidence of old men, in the early stage of dementia, is in question, care should be taken to ascertain how far his memory is really of the facts, and how far he is confounding what he has been told concerning the circumstances with what he has himself witnessed. The examination of such a witness should extend to other circumstances than those on which his testimony is required for the ends of justice, in order that the real calibre of his conservative faculty may be ascertained. In the later stages of dementia, in which complete incomprehension—or later still, when all the animal instincts are lost, and nothing remains but bare physical existence, no question as to evidence can arise. Many disputes arise in regard to the competence of dements to testify; but a careful examination, conducted in the way that has been indicated, will, it seems to us, in all cases lead to a satisfactory conclusion as to the amount of reliance which is to be placed upon the testimony offered.

3. *In relation to Mania.*—That a man labouring under partial intellectual mania may, in some cases, be a trustworthy witness is true. But it is also true that in many cases such a person could not offer reliable evidence. It has been urged that such a person might state that to be true which was only true in a subjective sense, that the "dagger of the mind" might be mistaken for a real dagger, and that cases may and do occur in which such unfounded beliefs are substituted for observed experiences is doubtless a fact. But these cases are not very numerous, and there are many instances in which the events which fell under the notice of the insane individual are so remote from the subject of his delusions that he is *quo ad* that experience, and the narration of it a sane man. Even in cases where a delusion seems so all-embracing as to modify a man's opinion concerning any possible state of facts—as, for instance, where the individual believes himself to be God: there is really such a separateness between the real life of the individual and his delusion that it may not in any way influence his testimony as to a certain state of facts. Indeed, the reality of the belief that an insane man has in his delusions or illusions, seems to us to have been much exaggerated. There is constantly present to the lunatic's own mind a consciousness of the unreality of the impression. The whole of nature and past experience is arrayed against the evidence which a man has for his illusion; and, while he is a man, he cannot totally disregard the evidence of reason. The belief in a delusion is, we are convinced, very often far from being firm; and this very uncertainty will often render the individual who labours under a delusion a more credible witness than he might be expected to be. The actual, thorough, and persistent belief in the real existence, as an object of sense, of what is only an object of that inner sense which is cognizant of delusions would utterly incapacitate an individual from bearing testimony as to any set of circumstances which might go to make up that concrete which we call an event. But the fact is, that that real conviction of the truth of illusional or delusional impressions does not exist, and those who have taken it for granted that the grounds of firm belief in the case of a delusion were as certain as those for the belief in any of the phenomena which are made known to us by means of the external senses are in error. In this way, matters which would, to ordinary reasoners, seem closely connected with the delusion of the monomaniac, are

really dissociated in the actual life of the individual by that wonderful despotism of facts which no delusion can set at naught. In this way, when the individual is known to possess a somewhat scrupulous regard for truth, the harbouring of a delusion seems to be an insufficient ground for the rejection of his testimony. In many instances monomaniacs are capable of conducting affairs of the utmost complexity. They are often possessed of shrewdness and intelligence, which enables them to carry on business with care and precision. They gain, by a long course of upright conduct, the respect and confidence of their neighbours; and it would be absurd to assert that those whom the common sense and daily intercourse of mankind has pronounced, in the most satisfactory way by acts, to be reliable in the affairs of life, should be looked upon as untrustworthy when called upon to give evidence. There is more to be feared from the unwillingness of such persons to speak the truth. This point has been already dwelt upon, and only one observation is required, in this place, as to the untrustworthiness of all such evidence. In many cases it is well that the evidence of the insane person should be received, and that the question of credibility should be left to the jury after the *ex parte* statements of counsel, and the direction of the judge. The difficulty of arriving at a conclusion with regard to the credibility is, however, greater than it has been represented to be. The motives for truth and falsehood are the guides to such a decision. In the case of a sane man it is not difficult to ascertain what his motives would be under any conceivable circumstances. The experience of mankind is evidence on the point; but in the case of a lunatic such a guide does not avail one. The ordinary motives are not those which influence the conduct of the insane. Every selfish act of a sane man is leavened with some unselfishness,—every hell-ward tendency is redeemed by a little reaching up to heaven; but in the case of a lunatic it is not so. They are almost invariably selfish,—large-heartedness is a rare virtue in the insane,—all the higher and noble emotions which find place in a true man's heart are absent from the heart of a lunatic; they are more animal than man. It is the animal instincts which remain the longest in all cases of decay. Lunacy is human life with all the higher forms of sentiency deleted. Motives under such circumstances are not the same as those which influence the manifestations of normal health; and to judge of conduct which results from

perverted emotions, and from warped affections in the same way as if it resulted from an ordinary conjunction of human qualities, is evidently a fertile source of error. One of the best marked symptoms of the presence of mania is a change in the affections of individuals; those who were loved during health are hated during the continuance of the disease. All these circumstances tend to render the valuation of the testimony of the insane a matter of exceeding difficulty. It is well in all cases in which the evidence of persons of unsound mind is had recourse to, to endeavour to corroborate the testimony in some particulars, at least, by means of the depositions of sane witnesses. The importance of this rule will be made manifest by the statement of the evidence of James Sumner, an inmate in the Birmingham Borough Lunatic Asylum, by means of which William Brayley, a warder in said asylum, was a few weeks ago proved, to the satisfaction of the stipendary, to have caused the death of a man named John Hinton. The prisoner Brayley was committed for trial at the next assizes.*

This is further illustrated by the case of Jacob Schwartz, which is reported by Dr. Ray.† One circumstance is worthy of being remembered, and that is, that failings may lean to virtue's side—that a man may have a morbid desire to speak truth, just as others have a morbid propensity to lie. Such a fact shows the necessity of a thorough knowledge of each case by competent individuals, in order to ascertain the real value of the testimony in any individual instance in which the question of the credibility of the evidence of a person of unsound mind is raised. Such a knowledge, and the corroborative evidence of competent witnesses as to the trustworthiness of the insane witness, would, it seems to us, remove many of the objections which might be raised against its acceptance in courts of law.

Where mania, properly so called, is present, the question with which we have to do in this place can scarcely arise. We have already considered the effect of a lucid interval upon the evidence

* The prisoner Brayley has, since the above was written, been tried and acquitted. The jury seemed to place no reliance upon the evidence of Sumner, although he was evidently quite sane at the time it was given. Sumner admitted that, previous to his asylum experience, he had known something of prisons, which may to some extent account for the verdict.

† Ray's 'Medical Jurisprudence of Insanity,' p. 365, § 304.

given of events which took place while the person testifying was still insane. In another place we have considered the influence that partial moral mania may have upon the evidence of an individual, especially when it assumes the form of mendacity. That a propensity to steal should not invalidate the evidence of the thief may seem reasonable; but in all kinds of moral mania, although many do merit the name of "partial," as being manifested only in relation to one class of acts, there is more or less a loss of moral tone. No vice can be continued even under the influence of disease without deteriorating the individual. Diseases are in league! Where moral mania has become habitual in relation to many classes of acts which would call forth approbation or disapprobation in others, the competence of the individual to bear witness in courts of law is reduced to a minimum. The shrewdness and intelligence so often manifested by persons labouring under general moral mania is apt to blind many persons to this fact. But even in these cases the absolute certainty of punishment in case of detection in untruth, and a very high degree of probability of detection, would do much to make a witness speak truth. But the rack is discarded in favour of cross-examination; and wherever the feelings of the insane witness are in any way involved, the result of the reception of his or her evidence is likely to be most unsatisfactory.

On the whole, this is a large and a dark subject, and the little rays which can be introduced into it in such a paper only serve to light it a little here and there, and show that there are some dark, unexplored corners. Still, if these little lights have not brought day, they may at least have been that John the Baptist of the day, the twilight.

Although the testimony of monomaniacs is no longer excluded, until very recently their incapacity to testify was regarded as a matter concerning which no doubt could be entertained, and the reason alleged for this opinion was the impossibility of calculating with accuracy the extent and influence of any delusion upon the general condition of the mind.* It would be as unreasonable to exclude the consideration of all motives because there is no animometer for spirits. It has been said with an approach to truth that a monomaniac "seems much in the condition of a lunatic who is in

* Roscoe, 'Crim. Evidence,' 4th ed., by Power, 123.

a perpetual lucid interval on all subjects save one."* Much light, however, was thrown upon the subject by the case of Reg. *v.* Hill;† and the recent conviction of William Wilson and John Hodson upon the evidence of an insane witness show that juries are more inclined to act upon the principles which were there laid down than they have hitherto shown themselves to be.

In the case of Regina *v.* Samuel Hill, the accused was an attendant in charge of a ward in a lunatic asylum. He was indicted for the manslaughter of Moses James Barnes, one of the patients under his care. The prisoner was tried before Coleridge, J., assisted by Cresswell, J., at the Central Criminal Court. He was convicted; but a question was reserved for the opinion of the Court as to the propriety of having admitted a witness of the name of Richard Donelly—who was a patient in Mr. Armstrong's lunatic asylum at Camberwell—on the part of the prosecution. Some evidence was gone into as to the competency of Donelly's testimony, and one witness stated that "Donelly labours under the delusion that he has a number of spirits about him which are continually talking to him. That is his only delusion; he has never been free from it to my knowledge since I have known him." Two medical witnesses deposed that, in their belief, Donelly was quite capable of giving an "account of any transaction that happened before his eyes." When Donelly was called, he was examined by the prisoner's counsel before he was sworn. In the course of this preliminary examination he said, "I am fully aware that I have a spirit, and 20,000 of them; they are not all mine. I must inquire—I can where I am—I know which are mine. Those ascend from my stomach to my head, and also those in my ears; I don't know how many they are. The flesh creates spirits by the palpitation of the nerves and the 'rheumatics;' all are now in my body and round my head; they speak to me incessantly, particularly at night. That spirits are immortal I am taught by my religion from my childhood. No matter how faith goes: all live after my death, those which belong to me and those which do not. Satan lives after my death, so does the living God." He also said, "They speak to me constantly; they are now speaking to me; they are not separate from me; they

* Best 'On Evidence,' 5th ed., p. 209. See also Evidence of Dr. Hill in Reg. *v.* Hill, 2 Den. P. C. C., 154.

† Denison's Crown Cases, p. 254.

are round me, speaking to me now; but I can't be a spirit, for I am flesh and blood. They can go in and out through walls and places which I cannot. I go to the grave; they live hereafter, unless, indeed, I've a gift different from my father and mother, that I don't know. After death my spirit will ascend to heaven or remain in purgatory. I can prove purgatory; I am a Roman Catholic; I attend Moorfield's, Chelsea Chapel, and many other chapels round London; I believe purgatory; I was taught that in my childhood and infancy; I know what it is to take an oath; my Catechism taught me from my infancy when it is lawful to swear; it is when God's honour, our own or our neighbour's good require it; when man swears, he does it in justifying his neighbour on a prayer-book or obligation. My ability evades while I am speaking, for the spirit ascends to my head; when I swear I appeal to the Almighty; it is perjury the breaking of a lawful oath, or taking an unlawful one; he that does it will go to hell for eternity."

He was then sworn, and gave a perfectly connected and rational account of the transaction which he reported himself to have witnessed. He was not certain as to the day of the week on which the circumstances he spoke of took place, and on cross-examination said, "These creatures insist upon it it was Tuesday night, and I think it was Monday." Whereupon he was asked, "Is what you have told us what the spirits told you, or what you recollect without the spirits?" And he said, "No, the spirits assist me in speaking of the date. I thought it was Monday, and they told me it was Christmas-eve,—Tuesday; but I was an eye witness, an ocular witness, to the fall to the ground." The question for the Court of Criminal Appeal was,—Richard Donelly's competency as a witness. The accused having been convicted, the case was argued before Lord Campbell, C. J. Coleridge, and Talfourd, J.J., and Alderson and Platt, B.B. The conviction was upheld. Lord Campbell, in delivering his judgment, said, "The question is important, and has not yet been solemnly decided after argument; but I have no doubt that the rule was properly laid down by Parke, B., in the case which was tried before him, and that it is for the judge to say whether the insane person has the sense of religion in his mind, and whether he understands the nature and sanction of an oath, and then the jury are to decide on the credibility and weight of his evidence. . . . A man may, in one sense, be *non compos*, and yet be aware of the

nature and sanction of an oath. In the particular case before the Court, I think the judge was right in admitting the witness; I should have certainly done so myself. . . . It has been argued that any particular delusion, commonly called monomania, makes a man inadmissible. This would be extremely inconvenient in many cases in the proof either of guilt or innocence; it might also cause serious difficulties in the management of lunatic asylums. I am, therefore, of opinion that the judge must in all cases determine the competency, and the jury the credibility. Before he is sworn, the insane person may be cross-examined, and witnesses called to prove circumstances which might show him to be inadmissible; but in the absence of such proof he is *prima facie* admissible, and the jury must attach what weight they think fit to his testimony."

Talfourd, J., said, "It would be very disastrous if mere delusions were held to exclude a witness. Some of the greatest and wisest of mankind have had particular delusions."*

In almost every respect the decision of the Court of Criminal Appeal is satisfactory. One thing can, it seems to us, be learned from the evidence given by Donelly, and that is, the tendency which many monomaniacs have of parading their delusions. The real feelings of an orator are only known to those who have spoken to an audience. There is something added to the thought by the presence of many of one's fellows, and the level prose rises into eloquence. Lunatics very often seem to partake of this feeling of the orator; and when they are relating their delusions they are not unfrequently carried beyond the actual depth of their own morbid impressions, and the real delusion is eked out by ordinary voluntary imagination. This is a cause of error even in the evidence of the best witnesses; but it complicates the question considerably when it is found in connection with real mental aberration. It is another proof that the evidence of a monomaniac may often be received even when the disease is manifested by the most extravagant delusions. What has been said and the case which has been quoted may render the subject of the admissibility of the evidence of the insane, at least, less of a mystery.

* See Waring *v.* Waring, 6 Moore's P. C. C., p. 341. In this connection the following cases may be consulted:—Reg. *v.* Eriswell, 3 J. R. 707; Currie *v.* Child, 3 Campb. 282. See also Chapman *v.* Graves, 2 Campb. 333 n; Adams *v.* Ker, 1 Bos. & P. 360; Cuncliffe *v.* Sefton, 2 East. 183; and Bennet *v.* Taylor, 9 Ves. 381; Rex *v.* Morley, quoted in Reg. *v.* Hill.

CHAPTER XXII.

ON THE PROGNOSIS OF INSANITY.

Many people have a passion for statistics, just as a miser has a passion for money. The accumulation of figures in the one case, is often as useful as the accumulation of figures in the other. So a great many medical gentlemen who have insane patients under their care have made large collections of these facts, or what they call facts, and have imagined that they have been doing good service to the science of medical psychology. Well has Emerson said, "It is not new facts that avail, but the heat to dissolve everybody's facts." There have been very few furnace heads applied to that heap of rubbish which is called facts. We must be content to see what these rags are.

As to the number of recoveries from insanity, the statistics which have been offered to the public are so far as we know exclusively derived from returns furnished by large hospitals for the insane. Even if these were accurate in themselves, this circumstance would render any inference as to the curability of insanity generally worthless. We have heard a good deal about "hospitalism" recently. Medical men have asserted that an hospital is to the grave what the jackal is to the lion. Sir James Simpson was at the head of those who thought that hospitals were bad things, and that people were taken to infirmaries to die. Now, we have seen a tendency to the spread of this idea. If a great man has an idea, there are a dozen little men who run away with it, make some slight modification in it, and then call it their own. The retail dealer often has more credit for the excellence of the wares than the maker. So this idea has been adapted, and a new department of sanitary science has arisen which we may call "asylumism." According to this made down theory, asylums are bad places, and the places least likely to conduce

to the recovery of the insane. If this is true, it will militate against the value of many of the statistics which have been collected.

Esquirol asserts that the number of recoveries from insanity is one in three. Prichard, on the other hand, imagines that the computation of recoveries is much too low; and Dr. Thurnum* says, "As regards the recoveries established during any considerable period—say twenty years—a proportion of much less than 40 per cent. of the admissions is, under ordinary circumstances, to be regarded as a low proportion, and one much exceeding 45 per cent. as a high proportion." The many sources of fallacy scarcely require to be pointed out. Those who have a high opinion of figures may retain their respect for them. It is, however, certain that in cases where the disease is not of long standing, treatment can be much more efficaciously applied than in those where it has existed for some time. The analogy of all diseases proves this. There are pathological habits just as there are physiological habits. Dr. Burrowes states the proportion of recent cases cured under his care to be ninety-one in one hundred. This is proved indirectly by the fact that the most favorable age for the cure of the disease is not only the youth of the disease, but the youth of the individual affected. The probability of recovery in middle life is very small in comparison with that which exists in relation to the insanity of early life. And it has been said that recovery almost never takes place after the age of fifty. Dr. Boyd has shown by his tables that 86 per cent. of males, and 92 per cent. of females, attacked with mania under twenty years of age, recovered at the Somerset Asylum during his management.

With regard to prognosis generally, it may be said that, while statistics prove that insanity does diminish the mean duration of life, yet it is not in most cases a disease directly fatal or even dangerous to life. General paralysis does, however, progress through its weird seasons to a fatal issue. Death almost invariably occurs within two years from the commencement of this disease. Some of the acute forms of insanity prove fatal by producing exhaustion, or death may, unless care is taken, follow persistent refusal of food. Another most important point to be marked in connection with prognosis is that, in many phases of this disease, there exists a strong desire to commit suicide.

* 'On the Statistics of Insanity.'

With regard to recovery, it may be said with truth that it generally takes place slowly and gradually; but that occasionally some sudden moral or physical impression has the effect of removing the morbid beliefs, and the man sits clothed and in his right mind, who only an hour or two since was mad. There are many cases of instant cure related in books on insanity.* After what has been said concerning the causes of insanity, it need scarcely be remarked that, in addition to the circumstances above alluded to, which predispose to sanity besides the youth of the individual and the recence of the disease, an early recovery is to be hoped for in those cases where the constitution is good, where there has been no excess of any kind, where the education of the individual has been good, which not only means good, *per se*, but which includes good in its relation to the faculties of the individual. The absence of hereditary tendency will of course give the individual more chance of early recovery from insanity, if the insanity is of a kind admitting of cure. When this is the case, when the disease is capable of removal by treatment, it is very difficult to say. We know, however, that idiocy, imbecility, and senile dementia, admit neither of cure nor of amelioration. And until very recent times general paralysis was regarded as not only incurable, but necessarily fatal in a certain time. Even mania, which is the most curable form of insanity when it has existed for more than two years, is ineradicable. Such statements, however, are only relative. Our present knowledge of mental disease and of pathology is very defective; with a fuller knowledge, with a more accurate experience, it is impossible to say how much these opinions would require to be modified.

One circumstance must not be overlooked in connection with the question of the curability of insanity, and that is, that there is a tendency to recurrence even after complete restoration to health. Perhaps of a hundred persons who have an attack of mania, and who recover from it, fifty will after such recovery again become insane. After insanity has passed away, there seems to exist a hyper-sensitive condition of mind which is ill suited to carry on the rough intercourse of the world, and its society. The man who has recovered is not so well as he was before he was taken ill. Disease always chooses the weak for its victims. Disease, like water, will take the easiest way; and as the individual who has recovered from insanity is weak

* See Prichard, Rush, Esquirol, and Pinel.

in that he labours under this hyper-sensitive condition of mind, he a second time falls under the wheels of some Jugarnatha catastrophe. Any great events in the world's history cause insanity, but the events are seeds which have fallen by the wayside; they require to fall on ground well suited, before they can spring up and blossom in insanity. And the good ground is weakness. Thus we have insanity connected with childbirth, we have it connected with the weakness of childhood, with the weakness of age, with the change of life, and various bodily diseases; and finally we find it in connection with previous attacks of mental disease.

The result, then, of these researches which have been made into the intricacies of this subject are these—that of twelve persons attacked with insanity, six recover and six die insane sooner or later. That of the six who recover three only will remain sane during the rest of their lives, and that the recovery of the other three will not be permanent.*

With regard to the cure, when it does take place, it is to be remembered that health no more than Rome is to be built in a day. Health returns very gradually. It is made up of many simples, and these are only to be reacquired slowly. In some cases it is true that a man is sane to-day and insane to-morrow, and that the change to sanity from insanity may be as rapid; but this is certainly exceptional. It is easy to jump over a precipice, but if one wants to get to the top from the bottom, he must be content to clamber up the hill. It need scarcely be added that, as recovery of health is not a *coup*, but a gradual process, so must the recovery of responsibility or civil ability be also a matter of time. But as the law cannot recognise the minute distinctions which exist between disease to-day and to-morrow, it cannot recognise graduated responsibility; and it is only necessary to remember that this recovery of mental strength, and, therefore, of the mental qualities necessary for the appreciation of one's position, and rights, and duties, is gradual, that due allowance may be made for those persons who have recently suffered from an attack of mental disease, and that it is safer to regard such person as still irresponsible for criminal acts and incapable of civil privileges, even although the recovery may seem very complete unless the contrary can be proved. Let the presumption be in favour of

* Older writers regarded the tendency to recurrence as one in six and not as one in two.

their want of capacity and their irresponsibility, and no injustice is likely to arise. At the same time this presumption is to be looked upon as liable to be rebutted by proof of its opposite. There is really much virtue in these presumptions of law.

Some medical men have entered into descriptions of the symptoms which they regard as hopeful, and as indicating a tendency to recovery. When these are anything other than the actual return of the thoughts and affections of the insane person in a minor degree to their accustomed channels—in which case they seem to be regarding recovery as a hopeful sign of itself—they are disputed, and no real agreement exists as to what symptoms have, and what have not a prognostic value. It is surely not prognosis to observe that when a man is getting better he is getting better. Such a proposition as A is A, is too full of truth.

CHAPTER XXIII.

ON THE EXAMINATION OF PERSONS SUPPOSED TO BE OF UNSOUND MIND.

There is scarcely any subject in connection with the medical jurisprudence of insanity which it is so important that medical men should rightly understand as diagnosis. It is by no means easy to discover when a person is insane. The difficulty is sometimes quite as great in establishing the fact of sanity. Of course the determination of these questions necessitates a thorough knowledge of insanity as distinguished from sanity. But in many cases all a physician's wisdom will not serve to assist him to a satisfactory diagnosis unless he has a considerable amount of that peculiar cleverness in the minutiæ of human intercourse which has been called *tact*. We cannot give rules for the exercise of this ability. All that we can do, in this place, is to suggest a few rules which may guide the questions of the practitioner who is asked to see an individual with a view to signing a certificate, or who has to examine an alleged lunatic with a view to ascertaining the fact of his sanity or insanity, whether it be with regard to civil or criminal proceedings. When we have done this, much will remain to the individual genius of each member of the medical profession who may be brought, for any of the above-mentioned purposes, in contact with persons of unsound mind. It is impossible to state rules for the manners of the examiner, and yet any one who has been associated with the insane must be aware how important demeanour is in all cases.

One thing must be remembered by the medical man who conducts an examination of a lunatic, and that is, to be as fair and just as possible. The medical man is not, or ought not to be, an advocate for one view or another. His sole anxiety ought to be to do justice.

He is, as it were, in the position of a judge. He has to weigh and consider the facts which he himself observes, and the evidence which is communicated to him by others. The best judge is an advocate after all, but it should be the strenuous endeavour of each one who is in such a position to be as impartial as it is possible for a man with a human bias to be. One important observation, which is applicable to all examinations conducted by medical men, is, that they should never endeavour to trap the lunatic. Such arts are allowable in a court of justice where there are counsel on either side and a judge who is capable of watching over the interests of justice, and at the same time is not incapacitated from regarding the interests of the accused. But in such examinations as those which are at present under consideration any such arts are entirely out of place. Still medical men are not unfrequently induced to indulge in such Old Bailey tricks from the pleasure they feel in exercising their own ingenuity. Such a practice cannot be too severely censured.

One remark may be made upon the distinction which is drawn between the evidence necessary to support an affidavit, and that which is required to be given in a certificate; and that is, that in the former a general declaration with regard to the insanity of the individual, supported by facts observed or information obtained at any number of previous interviews, or gathered from an intercourse extending over years, is all that is necessary, while all the facts that are stated in a certificate must have been observed, and all information quoted must have been obtained upon the same day upon which the certificate is signed.

Again, great care is to be taken in weighing the evidence of insanity which is conveyed to the medical man by those who are about the patient. In many cases the practitioner must exercise a sound common sense in judging of the reliability of those who communicate facts, which they regard as indicative of insanity, to him. He must take into consideration not only the motives which they may have for speaking the truth or for telling a lie, but even if he is assured of the perfect good faith of those with whom he communicates, he must be convinced of their ability to communicate the facts that they pretend to tell. In many instances if you ask one of those persons who are acquainted with the symptoms of insanity by reason of constant attendance on the insane, they are utterly unable to give their reasons for regarding any of the patients under their

care as insane. If you inquire of them they will answer, "Oh! they are here" (in the asylum). It requires much care and some real ability to arrive at the relative value of testimony, and medical men ought to be careful in weighing those facts which are communicated by the relatives and friends of those whom they examine. Many things will be mentioned to the medical man as proofs of the existence of delusions which are not evidence at all; and, on the other hand, actual delusions, because they seem connected with ordinary facts, will often be overlooked by relatives who wish to be thoroughly accurate. Thus a sudden change in the habits of an individual will, to a medical man, often indicate the presence of mental disease, although the conduct after the change may not, to an ordinary observer, appear in any way extraordinary. Thus we have met with a case in which, in an old gentleman, the beginning of mental disease was indicated by a careful brushing of the back hair and a flower in his button-hole.

Imagine a medical man in a witness box stating such circumstances as facts; imagine his examination. "Do you say that you regarded this gentleman as mad because he brushed his hair, and wore a violet in his button-hole?" "Yes." Imagine the counsel's look at the jury, the judge's puzzled expression, the jury's broad grin. Everybody in court seems to have put their shoulders into their ears, and the general impression is that the patient is sane and the doctor mad. Yet in the case alluded to these circumstances did indicate a complete change in the mental condition of a man upwards of sixty years of age, and a complete change at such an age is not a change for the better, and is indicative of the gravest deterioration of the organisation. But it is evident from this that, if you failed to make a judge, a counsel, and a jury understand that such circumstances were significant, such little things would probably escape the observation of the friends of the supposed lunatic, and in this way the information the medical man receives is generally defective and often untrustworthy. Even in judging of delusions friends show a sad want of competence. A man may say he believes his wife to be unfaithful, and that may be a delusion or it may be a well-founded belief. There is often much difficulty in ascertaining which of these a statement arises from. If you ask a man why he believes his wife to be unfaithful, he may have some delicacy in stating the reasons he has for thinking so; but you are not therefore to conclude that

it is a delusion. In such a case all the circumstances of the case must be considered,—his mode of admitting his belief, his whole language and conversation, and any derangement of physical health which may indicate the presence of mental aberration. Even where the belief is in some fact that at once shows that the mental impression must be a delusion, care must be taken. Galileo was put in prison because he said the earth moved round the sun, and Soloman de Caux was confined in a lunatic asylum because he said that he could make ships and carriages go by steam. We boast of enlightenment in these days, but some of our prejudices are quite as deeply rooted as that in the Ptolemaic system of astronomy, and we have ourselves met a medical man who would scarcely hesitate to sign a certificate for any "good old tory."

Again, even where those who are about the patient are capable of giving useful and accurate information, there are often circumstances which would induce them to be untruthful. Thus, a family is tormented with the erratic vice of one of its members; its respectability is in jeopardy; it looks forward to a time when he may be placed in a felon's dock; their position in society is at stake; it seems to them that the kindest thing that they could do for "poor George" is to put him in a lunatic asylum, and so keep him out of prison. And all these reasons tend to render the information they give to members of the medical profession less trustworthy than it might otherwise be.

Or it may be a husband is anxious to get rid of a wife with whom he finds he is unable to live happily. It may be that there are reasons for this want of comfort; his wife may be a drunkard, and he may endeavour to induce medical men to regard this habitual drunkenness as a symptom of mental disease. And we would say, in passing, that medical men should always be careful to ascertain that the patient whom they propose to examine is sober at the time of the examination. Cases have arisen in which this precaution has not been taken, and in which consequences of the most unpleasant description have ensued. Many other circumstances may point to a similar tendency on the part of informants. Thus, an individual may be accused of a crime, and all his friends may combine to give such an account of his past life as, taken in connection with the act itself, may lead to a belief in the mental unsoundness of a person who is actually sane. Again, on the other side it is often the

interest of those to whom the medical man must turn for information to prove that the person under examination is perfectly sane. The individual may have been boarded with a private family, and certain acts may have suggested the necessity of his removal to an asylum. In such a case the persons on whom the examining medical man must rely for a statement of the case, in so far as its recent history is concerned, are those whose object it is to prove that all the insane acts, which suggested the necessity of his removal to an asylum, were harmless eccentricities. All these circumstances are mentioned with laughter as if nobody thought anything of them; and we know of a case in which the desire to keep a person who paid a large board made the people regard the biting off of the head of a kitten as a pleasantry and an excellent joke.

Other cases have been indicated in earlier parts of this work which will suggest to the reader circumstances in which it would be for the interest of those who are about the patient that the truth should not be spoken. In all such cases it behoves the medical man to be exceedingly vigilant; for we need hardly say his duty is to speak the truth, and while there may be excuses for the untruthfulness of the near relatives of an individual if, in the supposed interest of a friend, they depart from truth, there can be no excuse for the medical man who so far forgets himself as to sacrifice one jot or tittle of the code of truth for the sake of a paltry fee, or for any other reason that can be urged. Feelings may excuse a father who would save a son from a gallows lying as to his past history, which he cannot look upon for his tears, but no feelings ought to influence the judgment of the medical man, who is none the less on his oath before God because he has not kissed the book.

In receiving information from other persons it is always well to ascertain that they attach the same connotation to a term as that which is attached by the recipient. There are many loose words and phrases which have no precise meaning used in this way, such as "strange," "excited," "not himself," "wandering," "incoherent." And when such words or phrases are made use of the medical man would do well to ascertain the reasons of their use, or the acts done by the individual which will warrant their use, or render them applicable.

So much for the evidence for or against insanity which is given by friends; we come now to the examination of the lunatic himself.

But it is sometimes by no means easy to gain access to the individual who is to be examined. Persons of unsound mind are often very suspicious. Monomaniacs are very frequently full of suspicion; and even those persons who do not labour under monomania, but who have been in an asylum previously, are upon their guard against medical men. So that it is sometimes almost impossible to procure the interview which is necessary if a medical man would form any opinion as to the mental condition of his patient. In many cases insane persons, of whose morbid condition there could be no doubt, have refused admission to medical men, and have threatened violence if the intention to thrust a medical man into their company was persevered in. In many cases they would undoubtedly have carried out their threat, and some of them have intelligence enough to reason that if they did kill a man there would at least be a doubt as to their responsibility, like the lunatic in an asylum near York, who, when Martin set fire to the Minster, was discussing the matter with some of his fellow-inmates, and who said, "He (Martin) will not be hanged, of course; he will escape. They can't hang him because he's mad; he is one of ourselves."

But there are many other ways in which the desire for an interview may be frustrated. Persons of unsound mind are aware that no force or compulsion can be used, and if a medical man is shown suddenly into their presence, they may resort to the expedient of leaving the room; and some have under similar circumstances sat quiet and held their tongue. There are many ways in which this purpose may be obstructed, and the intention frustrated. Under these circumstances many medical men resort to stratagem. If they are informed that the lunatic believes himself to be a king, they go into his presence as a meek and dutiful subject. If the man is a melancholic, as a clergyman. If an optimist, as a beggar. They repudiate the supposition that they are medical men, and appear before the patient in some less distasteful capacity.

Some writers have disapproved of this system, and have argued that it is better to go into the presence of a lunatic *in propriâ personâ* without any simulation. They argue that when such is the case the medical man is in a position to question the supposed lunatic more minutely than he could otherwise do, as to his health, his feelings, his sensations, and the like, and that in this way he can invariably reach the insanity of the individual in a shorter time than he could

otherwise. It is certainly true that "self" is the object of a lunatic's thought; indeed, lunacy might almost be defined as morbid subjectivity. It is always thus, a dagger of the mind becomes as real to the insane person as an objective dagger. His own intense feeling of self darkens the world as in a case of melancholia, or lightens it, as in one stage of general paralysis. But against this view it may be urged that if the medical man can get a correct description of the mental symptoms of the person he is about to examine, and can skilfully mix himself up with the morbid impressions of the lunatic, the insanity will unfold itself immediately, and no difficulty will be experienced. This, however, is by no means easy of achievement, and we should recommend medical men to resort to this expedient as rarely as possible.

But obstructions are thrown in the way of medical men in the exercise of this duty not only by the patient himself, but by friends, who may mean well, but who very often do ill. To some near relatives of a patient it seems a horrible thing to shut him up in a lunatic asylum. There is much of the old prejudice existing in the minds of the public as to the madhouse, so much so, that a friend of our own, who has charge of one of the largest asylums in this country, was asked by a man, who came to remove the body of his wife, "how he had put an end to her." The man added that "he did not object, he knew it was often necessary, but he thought it would be a satisfaction if he knew." These prejudices induce many of the friends of patients to throw obstructions in the way of the examining medical man; and many resist the inspection of the relative upon all manner of grounds, and we know of a case in which it was resisted even with force.

However, let us suppose those obstacles overcome: the medical man is in the presence of his patient, and the question is, how should he proceed?

1. He ought to pay considerable attention to the physiognomy of the individual before him. That this is of the utmost importance cannot be doubted, after a careful perusal of the monograph upon physiognomical diagnosis which appears in another part of this work. It has, however, been objected that the peculiar physiognomy of those labouring under insanity can only be appreciated by those who have known the expression of the patient in a state of health. But this is not so. Although the distinction may be more marked to

those who have the advantage of these two classes of observation, who have the effect of change to assist them in discriminating between the influence of health and disease upon that mosaic work—an expression—still there is a type of expression easily recognisable by those who have made the face symptoms of health and disease their especial study. All faces seem to have meanings besides or underneath, as it were, their changing expression; and in disease it is the meaning that is altered, rather than the expressions which pass over it.

Besides the face, the manner and demeanour of the individual are to be carefully noted. Of course in these recommendations I do not wish to be supposed to refer to those acute forms of mental disorder when no such examination is necessary, nor to those well-marked forms of the disease, such as mania, idiocy, or dementia proper. Such rules as I would suggest for the guidance of medical men must be understood to have reference to those doubtful cases in which it is difficult to discover the existence of insanity, for in many cases a careful concealment of all abnormal mental symptoms goes so far as almost to suggest the possibility that it is a part of the disease. Having mentioned the importance of observing the manners and conduct of the individual, and of taking note of the shape of his head and the conformation of his body, we may proceed to suggest a series of questions, which must be brocaded, as it were, on ordinary conversation. It is well to discover whether he is able to tell how many people are in the room; whether he knows his own age; whether he is conscious of the lapse of time, and can remember the order of recent events. Questions should be asked to ascertain whether he takes any interest in political events, or knows the names of the queen, or of any of those persons who are for the time most frequent subjects of conversation. Inquiry ought to be made as to the religious belief of the patient; as to his knowledge of the ordinary and best known tenets of religion. Besides these subjects, questions of business may be introduced, and his knowledge of the value of money, of his own affairs, and of mercantile arrangements generally should be asked. Of course the medical man must suit his questions to the position and education of his patient, and must judge of the answers he receives in relation to these circumstances. A coarseness that would be natural in one, would be an indication of morbid mental conditions in another, and not only must the general rank and posi-

tion of the examinee be borne in mind, but it is well to become familiar, if it is possible, with any mental peculiarity which may have existed before the alleged inception of the disease, and to see whether the idiosyncrasy has passed into actual disease. During the whole of the examination we would recommend observations as to the power possessed by the individual over the concentration of consciousness, and a distinction must be drawn between the answers to those questions which necessitate a simply affirmative or negative answer and those which are likely to require considerable judgment and reflection before any satisfactory answer can be given. It is also well to note whether the patient has any control over his feelings, and a short and flat contradiction will often bring out the fact whether he does or does not possess this power. It can be easily understood that all this information cannot be elicited without much tact and ingenuity; but it must be borne in mind that much conversation upon indifferent topics is generally of very little use. Many persons who labour under any form of partial insanity can conduct a conversation upon indifferent topics for hours, and often simple allusions to the topics which are connected with the diseased belief of the individual will not immediately bring out the fact of insanity. Although we have suggested topics of conversation, the medical man must be guided very much by circumstances. Of course if a delusion exists, and if it can be discovered by the examiner, all difficulty is at an end. But, as we have pointed out, it is of the utmost importance to determine the fact of illusion, not upon the testimony of others, but upon the facts observed by the practitioner himself. It has been recommended that when it is impossible to determine the fact of the existence of a delusion, without having recourse to the evidence of others—and this is very often the case—the source of the information should be stated, together with the information itself.

Thus it might be put. "The patient tells me that he is ruined, which I am assured by his wife (or son, or lawyer as the case may be) is an entire delusion."* There is certainly a specious look about such a procedure, but it seems to be only one way of avoiding the recommendations or express enactments of the act. And it is much better if one is unable to discover sufficient indications of insanity at one interview to refuse upon that occasion to sign the certificate, and

* Blandford 'On Insanity.'

to return again at another time. In such a case the necessity for incarceration cannot be very urgent, and it is certainly better to suffer, or make others suffer, an inconvenience than to do an act which may lead to gross injustice. Much difficulty will doubtless be felt in many cases where the patient is not intellectually but morally insane. In such cases, as we have seen, no delusion may be present, and the morbid propensity may manifest itself only in a series of acts, every one of which is criminal in its nature. Here the medical practitioner must be very careful, but it is right that he should sign a certificate for any individual whom he regards as markedly insane and concerning whom he would, if a crime were laid to his charge in a Court of Justice, make a similar assertion upon oath. But many medical men are more careful of signing a certificate which will deprive an individual of liberty and may, in time to come, subject them to prosecution, than they are of swearing in a court of law to the sanity or insanity of an individual in whom the disease may scarcely be so marked. A careful study of the descriptions already given of the various forms of moral mania, and an inquiry into the past history of the case so as to bring into view the possible cause of the disease, will, it seems to us, in all cases enable a medical man to sign a certificate for persons labouring under this form of mental unsoundness. In the examination of other persons with regard to such cases, care is to be taken to elicit information as to whether the supposed lunatic has had any epileptic, or epileptiform, or apoplectiform attack, or whether he has at any time been liable to fits. Whether he has met with any accident, for example, a fall or blow on the head, or whether he was delivered by forceps; whether he has at any time laboured under any bodily disease which has been marked by or produced head symptoms. Whether there was insanity in the family, and in what members of it; whether any of his relatives were subject to fits, and whether they laboured under any constitutional disease, such as phthisis. As to whether he was able to profit by education and to what extent. Questions such as the following ought also to be asked of those who are in a position to answer them. Is there anything in his recent history which could account for this alienation? Has he been overworked? Has he had great grief or anxiety? Has he met with losses in business? In what way (if any) has he altered? Since when does this alteration date? In what is this change manifested? How does his

conduct differ from what it formerly was? What are his habits? Is he temperate or intemperate? Is he restless? Have his feelings or affections undergone any marked change? If this does exist how is it manifested? These questions may assist the examiner in arriving at information which will certainly be of the greatest service to him in the formation of his opinion. The confession of the individual who is examined will also assist him, for they not unfrequently acknowledge their faults and deplore that sad abnormal weakness of the flesh which, as it were, compelled them to sin. The medical man must be prepared to find many cases of actual moral mania or moral imbecility in which the disease is not discernible by him in a single interview. Many moral maniacs and imbeciles, as we have seen,* are perfectly capable of reasoning accurately concerning many of these delusions, and some lunatics are adepts in concealing their delusions. Only care and an expenditure of time and patience can overcome these difficulties. With regard to the special tests which may be applied in the different kinds of moral mania described in an earlier part of this work nothing need be said in this place. The medical man must in each case adapt his examination to the supposed disease; and he must be careful not to cling too persistently to any hypothesis that he may have formed. An hypothesis is to a theory very much what a provisional committee is to the actual company of directors. It is well not to allow the one to supersede the other. It is a sign of a want of thorough education in a man if he clings to an hypothesis after it has been proved useless by the progress of discovery. It is an error many fall into. With regard to cases in which mental deterioration and decay is going on, questions which go to test the memory of recent and remote events are most important. It is well in such a case to have provided oneself previously with some accurate information with regard to some trivial event in the past life of the patient and to question him concerning it, and to compare his recollection of such circumstances with his recollection of other and more important events. Repetitions of words or sentences, questions or stories must be noted. Forgetfulness or confusion of names, a knowledge as to his affairs, as to his children, as to places he has seen, as to people who are dead; and the strength of his volition ought to be made subject of inquiry. Of course it is only in cases where the

* See ante, p. 119 et seq.

dementia is still incipient or has only made a little progress that any difficulty can arise, just as it is only in the least-marked degrees of imbecility, and in the partial forms of mania that there can be any necessity for so minute an examination. In all cases it is well to ascertain the state of the patient's general health, and to note whether the complexion is pale or florid, dusky or bronzed. The skin ought to be examined, and the temperature carefully taken, and the condition of the pupil and retina ascertained. Inquiries ought to be made into the state of the digestion, as to the appetite and bowels, and, if the patient is a female, as to the state of the menstrual functions. The tongue, of course, ought to be examined and the patient's sensitiveness of skin, and sensibility to heat and cold tested. Enquiries ought also to be made with reference to the patient's sleep, as to whether it is sound and tranquil, or light and broken.

In many cases it will be expedient to examine the letters and other writings of the patient. Many men "write themselves down" asses. They are off their guard when they are writing to some friend, and they are not under the restraint of a personal presence, or tempted to the dogmatic reticence by the questions that are put. Timid people will be bold in a letter, and insane persons will often betray their delusions in ink. A comparison between letters of a supposed lunatic during the time of the alleged insanity, and before its inception, will often prove useful.

Something must be said concerning the slovenly way in which certificates are filled in. It is a somewhat curious fact that a training which ought to make men accurate—such as a systematic study of medicine—should have the directly opposite effect. Perhaps it is, as Bacon says, writing that makes an accurate man, but one thing can be said with confidence, and that is, that medical men are most inaccurate. We were once present in a class of Medical Psychology and Mental Disease while its pupils, who were young men who had just taken their degrees, were being exercised in the filling up of certificates. The certificates when filled up were submitted to us, and we regret to say that, out of the eighteen or twenty which were submitted to us, not one was correct. They had, it appeared to us, in every case, neglected to read the rubric directions, as to how it was to be filled up, with anything like rational care. The following statements which we have procured from an asylum case-book, and which were in the certificates given under the head of "facts indi-

cating insanity observed by myself," will further illustrate, and will go far to prove, this assertion.

One medical man gives as a fact indicating insanity observed by himself—"She seems to be a person of very deficient intellect, and lives alone with an old woman who is intensely deaf;" another, "laughs in an incoherent manner;" another, "answers to any questions that may be put to her, and desires to be on the open sea;" another, "that her lips are in motion as though in mental conversation;" another, "commenced laughing for a considerable time;" and still another put "an excitable aspect and oblivious manner." All these indicate a considerable amount of incoherence at least in the medical man, and the absurd solecisms and bad grammar are too obvious to require mention. We will quote one other example that has been supplied us. "She is," says the medical man, speaking of the patient, "at this moment exclaiming vehemently about death, and the skies, and all sorts of incoherent subjects; that she is violent and intractable. I have a medical certificate before me of the patient's insanity: it appears to be distinctly puerperal mania."

From this we gather that, in the opinion of this medical man, "death and the skies" are "incoherent subjects." What is meant by "incoherent subjects" we do not profess to understand, any more than we know what a "mental conversation" or an "incoherent laugh" is. But we learn more, that a "medical certificate" may be "distinctly puerperal mania;" that all these things are facts, that they indicate insanity, and that they have been observed by this highly intelligent medical practitioner.

If medical men would read the marginal notes which are appended to the printed form which they are required to fill in, and if they would pay some attention to what they read, these stupid mistakes could not arise. It is best to form every statement of fact into a sentence, and to be careful that, when speaking of what you have yourself observed, you do not introduce matter which has been communicated by others. Vague terms are to be carefully avoided; and opinions are never to be stated as facts. The necessity of the statement of such rules is shown by the above instances of blunders.

One word may be added with regard to the appearance of a medical man as a witness in court. It need scarcely be pointed out in this place that all definitions of insanity are to be avoided. Many things

cannot be defined, but may be described. The diagnosis of a disease does not lie in the recognition of one symptom, but in the recognition of a large number of symptoms in a certain combination. Yet upon these very points counsel will attempt to shake the evidence of medical witnesses. Some medical gentlemen have been so foolish as to attempt definitions of insanity in the witness box. And the result might have been anticipated; they failed in the attempt; they were laughed at for their trouble, and the evidence they gave upon other points lost the weight which ought to have been attached to it. It is well never to attach too great importance to one symptom. It is much safer to refuse to regard any circumstance as in itself a satisfactory diagnostic symptom. In that case the medical witness is in the stronghold of opinion. Opinion is impregnable. Scientific facts, when stated with the inferences drawn from them, are food for forensic powder. Refuse to acknowledge the efficacy of special tests. They are much prized by lawyers, as they impress a jury, but it is beneath the dignity of the profession to stoop to what is only a kind of scientific claptrap. It is well not to form an opinion without having had sufficient opportunities of judging, and in all cases more than one visit ought to be paid to an examinee, and sometimes it would be well that the patient should be under the care of the medical man, who would speak with accuracy as to his sanity or insanity, for a considerable time.

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